

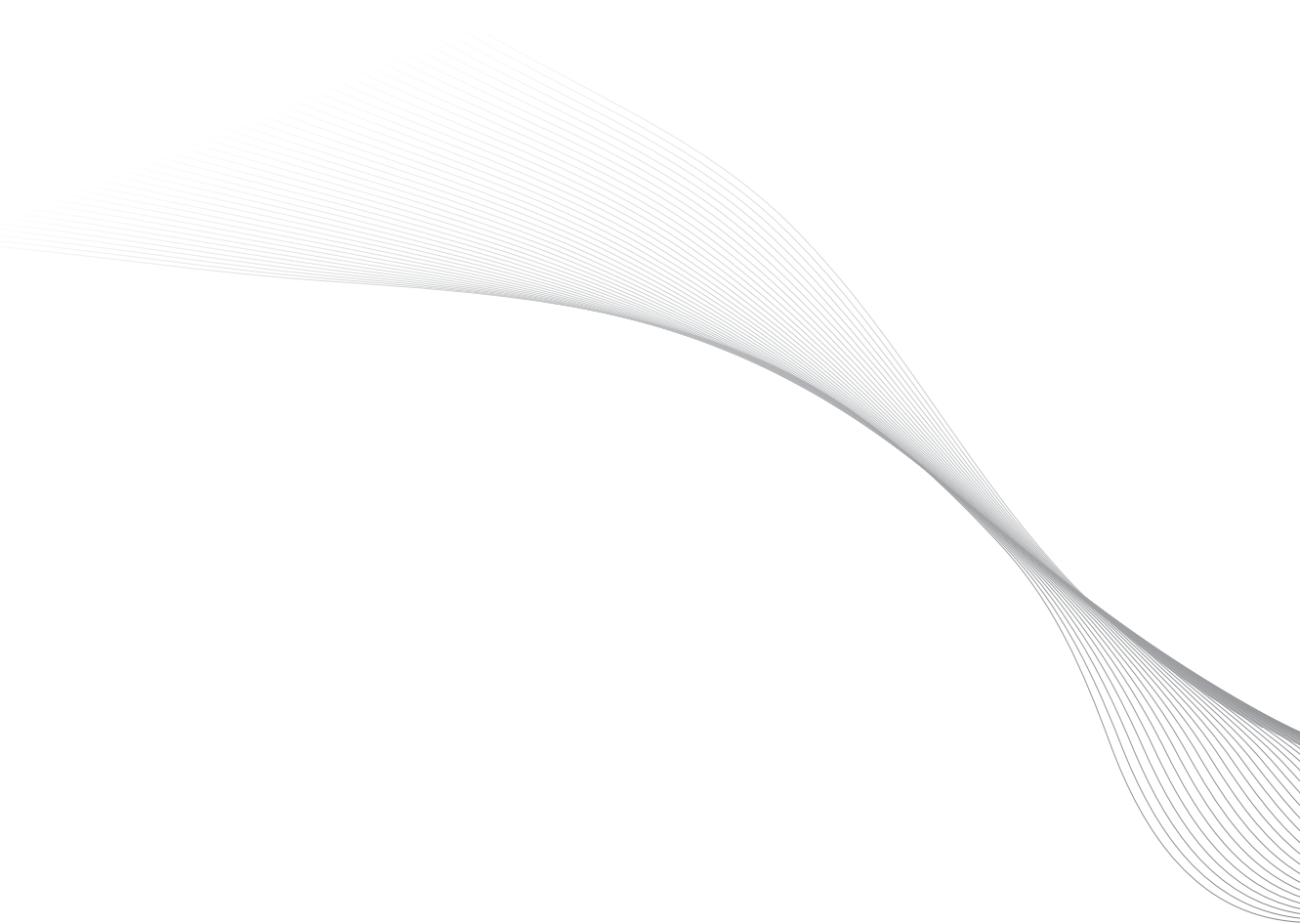
Annual report

2008–09



**Australian
Communications
and Media Authority**

Annual report
2008–09



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22 September 2009

Senator the Hon. Stephen Conroy
Minister for Broadband, Communications and the Digital Economy
Parliament House
Canberra ACT 2600

Dear Minister

In accordance with section 57(1) of the *Australian Communications and Media Authority Act 2005*, I am pleased to present the annual report on the operations of the Australian Communications and Media Authority, for the 2008–09 reporting year.

Please note that section 57(3) of that Act requires that you table the report in each House of Parliament within 15 days of receiving it.

Yours sincerely



Chris Chapman
Chairman



communicating | facilitating | regulating

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Chairman's foreword

In 2008–09, the Australian Communications and Media Authority (the ACMA) continued to actively pursue its strategic goal of making communications and media work in Australia’s public interest.



Chris Chapman, Chairman

Examples of key areas of work for the organisation during the period include:

- > With respect to radiocommunications (spectrum):
 - Developing and refining the ACMA approach to future spectrum arrangements.
 - Ramping up activities related to the digital switchover.
- > With respect to broadcasting:
 - Ongoing engagement with reviews of commercial radio and television codes and standards.
- > With respect to telecommunications:
 - Implementing measures to protect consumers of premium short message services (SMS).
- > With respect to the internet:
 - Establishing a national cybersafety education program.
- > From a convergence perspective:
 - Anticipatory planning for the move to a National Broadband Network.
- > Successful and active engagement across all areas with a wide range of clients and stakeholders, including international counterparts.
- > Using the established ACMA research and reporting program to inform our decisions as an evidence-informed regulator.
- > Continuing our active program to transform into an agile, adaptive and resilient organisation, reflected in a new brand livery informed by the convergence of the four worlds of radiocommunications, broadcasting, telecommunications and the internet.

The ACMA announced a number of significant proposals for future spectrum arrangements, including a harmonised band for government use and measures to allow more efficient use of spectrum in the 400 MHz band. We continued to promote consultation, transparency and accountability in our radiofrequency spectrum planning and management through a number of key initiatives including the release of both the *Five-year Spectrum Outlook 2009–2013* and the Australian Radiofrequency Spectrum Plan. The ACMA also finalised the spectrum management principles that the organisation proposes to use in its management of the radiofrequency spectrum.

As the regulator responsible for spectrum management and broadcasting regulation, the ACMA has a number of significant responsibilities related to the digital switchover. We are working closely with the Digital Switchover Taskforce and the Department of Broadband, Communications and the Digital Economy, providing technical expertise and regulatory advice to help scope the digital dividend arising from the switch from analog to digital television and ensure a smooth transition. The Authority also has a program of field work on digital coverage, intended to gauge compliance with the 'same coverage' objective of TV digitisation and identify any problems in advance of analog shut-down. In October 2008, the minister released a timetable for the switchover and announced that the Mildura-Sunraysia licence area will be the first to have analog free-to-air television signals switched off during the first half of 2010. The rest of Australia will follow a rolling timetable with the last areas to be switched off by 31 December 2013.

At the same time, we have begun conceptualising how telecommunications networks and consumer safeguards might move to a National Broadband Network world which, as it unfolds, will likely highlight the convergence of these traditional telecommunications concerns with regulatory aspects of spectrum management and broadcasting.

In December, we announced a comprehensive review of the three commercial radio standards that were originally determined by the Australian Broadcasting Authority under the *Broadcasting Services Act 1992*. The review will consider the appropriateness, effectiveness and efficiency of current regulatory arrangements under these standards. During the reporting period, we began a program of research to establish a solid evidence base for the review, including research into community attitudes and comparative research on international approaches to regulation, which usefully informed the decision by the Authority to initiate an investigation into the adequacy of community safeguards for live-hosted entertainment programs on commercial radio in August 2009.

Our review of the Children's Television Standards (CTS) continued in 2008–09. The draft CTS 2008 was released for public comment in August 2008 with the new CTS being finalised in September 2009, effective from January 2010.

Our comprehensive strategy for protecting consumers of premium short message services (SMS) was announced in May 2009, in response to increasing consumer and community concern about some industry practices in this area. The package of measures included a determination that will legislatively mandate a number of specific protections and a coherent and comprehensive monitoring framework. We also registered the industry-developed Mobile Premium Services Code, effective from 1 July 2009, which sets out detailed rules covering a range of important matters including procedures to be followed for subscribing to premium SMS services; the banning of advertisements targeted at children under 15; strict rules about how advertisements (and charges) are displayed; and improved complaints handling obligations of companies supplying premium SMS services.

The development and implementation of a national cybersafety education program was another significant ongoing project contributing to Australia's public interest this year. Awareness activities centred on the deployment of internet safety presentations, a comprehensive professional development program for teachers and the development of cybersafety education programs and information for schools, parents and libraries. Development of a comprehensive and practical new website, www.cybersmart.gov.au, was also completed during the year. The website provides a single access point to cybersafety information, advice, resources and research and includes a comprehensive area for schools – the Schools Gateway.

Stakeholder engagement was a key focus area in 2008–09. The ACMA conducted its first Client and Stakeholder Satisfaction Survey to assess perceptions of the standard of our service delivery. The survey evaluated the ACMA's service delivery against a number of quality indicators, such as timeliness, responsiveness and professionalism, and sought feedback from a broad range of ACMA clients and major regulatory stakeholders. Survey findings were positive, and showed that the ACMA is successfully and actively engaging with its increasing and diverse range of clients and stakeholders in the convergent environment of media and communications.

As part of the ACMA's desire to keep a global perspective on this rapidly converging environment, we have also engaged with a number of converged communication regulators from Europe and Asia throughout the year, essentially to swap notes about trends, operations and priorities.

Internally, we continued our active program to transform into an agile, adaptive and resilient organisation responsive to the many challenges and demands of the rapidly changing communications and media environment. Our transformation program invests in leadership, reassesses processes and explores regulatory policy options and opportunities. It is characterised by first principles thinking, openness to regulatory change, and demands a technology shift in information and e-business systems.

This sentiment about the need for internal transformation, to better equip the ACMA to deal with the increasing convergence of the four sectors of communications and media that it is charged to regulate, inspired the new logo and branding for the ACMA that is illustrated on the cover of this annual report.

Our research and reporting program continued to inform our decisions as an evidence-informed regulator throughout the year. The program explored changes in the communications and media markets from technology, market development and community perspectives to provide an evidence base to support consideration of when and where changes to regulation are needed.

As this report seeks to demonstrate, our work continues across the widest geographic scale, from satellites in space to cables beneath the sea, and from the most remote rural outpost to congested metropolitan streets. We look forward to continuing to undertake our essential work across this broad and diverse landscape, to meet our goals despite the challenge of continuous and rapid change, the pace of which is unlikely to slacken in the coming year.



Chris Chapman
Chairman



Highlights

The background is a solid orange color. A decorative element consisting of many thin, parallel, wavy lines in a lighter shade of orange flows from the left side, curving upwards and then downwards towards the right side of the page.

The Australian Communications and Media Authority (the ACMA) undertook a wide range of activities, programs and investigations during 2008–09.

The following are the highlights of the year.

Mobile Premium Services

On 18 May 2009, the ACMA announced a new package of regulatory measures for mobile premium services. The package includes two service provider determinations made under the *Telecommunications Act 1997*, registration of the Mobile Premium Services (MPS) Code and a rigorous monitoring program. Its development followed extensive consultation with consumer representatives, the Australian Competition and Consumer Commission, and the Telecommunications Industry Ombudsman.

The ACMA industry-developed MPS Code was registered on 18 May 2009 and comes into force on 1 July 2009 with a review scheduled within 12 months of commencement. The code sets out detailed rules covering a range of important matters including procedures to be followed for subscribing to premium SMS services, the banning of advertisements targeted at children aged under 15, strict rules about how advertisements (and charges) are displayed, and improved complaints-handling obligations on companies supplying premium SMS services.

Do Not Call Register

In 2008–09, more than 1.12 million telephone numbers were added to the Do Not Call Register and, by 30 June 2009, a total of 3.54 million telephone numbers had been registered.

By the end of the reporting year, 3,705 telemarketers were registered to check telephone numbers and more than 2.02 billion telephone numbers had been checked, or 'washed', against the register.

On 12 May 2009, the government announced its intention to expand the Do Not Call Register to allow all types of numbers, including business and fax numbers, to be listed. To enable this expansion, the government is expected to introduce legislation into parliament in late 2009 to amend the *Do Not Call Register Act 2006* (the DNCR Act).

Launched in May 2007, the Do Not Call Register allows individuals to register their home and mobile numbers to opt out of receiving unsolicited telemarketing calls. To avoid penalties for breaching the DNCR Act, telemarketers and businesses that make telemarketing calls are able to submit their telephone calling lists to the register operator for checking against the register.

Anti-spam activity

In 2008–09, the ACMA received 3,947 complaints about spam, a 31 per cent increase from last year. This increase is attributed to positive media coverage of enforcement outcomes and increasing awareness of SMS spam.

The record number of spam complaints received during the year showed an increase of 71 per cent for complaints about SMS spam, the most significant increase since the *Spam Act 2003* (the Spam Act) was implemented. The total number of complaints received about email spam was 2,955, a 21 per cent increase over last year. SMS complaints totalled 992 during the year. The ACMA has received 11,050 complaints since the Spam Act commenced.

During 2008–09, the ACMA progressed approximately 25 ongoing mid-level and major investigations related to alleged breaches of the Spam Act including lodgement of the first Federal Court action involving SMS spam.

During the year, the ACMA also issued seven infringement notices totalling \$376,200, with six issued to SMS service providers. In addition, the ACMA issued three formal warnings and accepted two enforceable undertakings, including one with a financial component of \$10,000. The ACMA also sent out 967 letters and emails during the year to companies informing them about the requirements of the Spam Act.

The ACMA is responsible for the enforcement of the Spam Act, which requires that all commercial electronic messages—including emails, SMS and MMS messages, and instant messaging—be sent with the recipient's consent, clearly identify the sender and include a functional unsubscribe facility.

Members of the public can lodge complaints and enquiries about spam on the ACMA's website. The ACMA responds in writing to each complaint or written enquiry.

Digital television

As the regulator responsible for spectrum management and broadcasting, the ACMA has a number of responsibilities related to the switchover to digital television. The ACMA worked closely with the Digital Switchover Taskforce and related areas of the Department of Broadband, Communications and the Digital Economy during 2008–09, providing technical expertise and regulatory advice.

On 19 October 2008, the minister released a timetable for the switchover to digital television. The first area where analog free-to-air television signals will be switched off will be in the Mildura-Sunraysia licence area in north-west Victoria during the first half of 2010. The rest of Australia will follow a rolling timetable with the last areas to be switched off by 31 December 2013.

Cybersafety

The ACMA's role in the areas of cybersafety includes the development and implementation of a national cybersafety education program. This role was conferred on the ACMA under Schedule 5 of the *Broadcasting Services Act 1992*. As part of its Cyber-Safety Plan, the government announced funding in the 2008–09 Budget of \$14.2 million over four years for the ACMA's cybersafety activities.

During the reporting year, awareness activities focused on the continuing development and deployment of internet safety presentations and teacher professional development for the outreach program and the development of cybersafety education programs and information material for schools, parents and libraries.

Development of a new website, to take the place of both the NetAlert and Cybersmart Kids websites, was also completed during the year with the new site due to be launched in July 2009.

Children's Television Standards review

The ACMA continued its review of the Children's Television Standards 2005 (CTS) in 2008–09, releasing the draft CTS 2008 for public comment in August 2008. The ACMA received 53 submissions by the closing date of 31 October and anticipates that the review will be finalised, and the new CTS published, in early 2009–10.

The ACMA monitors compliance with the CTS through its Australian content database and the self-reporting notification regime under which commercial television broadcast licensees currently report to the ACMA.

In 2008, all of the licensees met the minimum quota requirements for children's programming.

Review of commercial radio standards

On 18 December 2008, the ACMA announced its decision to undertake a comprehensive review of the three commercial radio standards that were determined by the Australian Broadcasting Authority under the *Broadcasting Services Act 1992*. The review will consider the appropriateness, effectiveness and efficiency of current regulatory arrangements under the commercial radio standards, including the extent to which these achieve their current objects and are consistent with the objects and regulatory policy of the Broadcasting Services Act.

During the reporting period, the ACMA undertook a program of research to establish an evidence base for the review. This included research into community attitudes and comparative research on international approaches to regulation.

Online content complaints

During 2008–09, the ACMA continued to receive relatively high numbers of complaints about online content. A total of 1,182 complaints were received in the period compared with 1,122 in the previous year.

The ACMA finalised investigations into 2,281 items of online content during the reporting period, compared with 1,488 items of online content in the previous year. This is an increase of 53 per cent.

Investigations and enforcement action

Underbelly and Gordon Ramsay

In February 2009, the ACMA announced that it had accepted enforceable undertakings under section 205W of the BSA from both the Nine Network and WIN Corporation about actions licensees would take to ensure that *Underbelly* and the range of programs featuring the chef Gordon Ramsay would be correctly classified. This was the first time the ACMA had accepted enforceable undertakings from commercial television licensees relating to matters covered by a code of practice.

The undertakings included requirements to put in place more rigorous classification procedures and additional training and reporting processes.

Acceptance of the undertakings followed the ACMA's earlier findings that five episodes of *Ramsay's Kitchen Nightmares* and three episodes of *Underbelly* were incorrectly classified M (Mature), rather than the more restrictive MA (Mature Audience).

Investigation into compliance by 2UE with commercial radio standards and subsequent actions

On 20 November 2008 the ACMA published the report, *Compliance Assessment Report – Radio 2UE Sydney Pty Ltd*.

The report assessed compliance by 2UE with an enforceable undertaking given under section 205W of the BSA on 24 September 2007 under which the *John Laws Morning Show* would be monitored and 2UE would take action if disclosure announcements were not made when presenters mentioned sponsors. The undertaking was given in response to the ACMA's earlier findings that 2UE failed to cause disclosure announcements to be made on 20 occasions in August 2006 when Mr Laws mentioned a sponsor, Telstra, including during an interview with the then Prime Minister. The disclosure obligations are set out in the Broadcasting Services (Commercial Radio Current Affairs Disclosure) Standard 2000 (the Disclosure Standard).

The ACMA reviewed reports of the monitoring conducted during October and November 2007 and found 13 incidents, all amounting to breaches of the Disclosure Standard, when no disclosure announcement had been made, or when a disclosure announcement was not made in the manner or at the time required under the Disclosure Standard. As 2UE had either failed to take action in relation to these breaches, or had failed to report the breaches to the ACMA (or both), the ACMA found that 2UE had breached its enforceable undertaking on these occasions.

The ACMA also found that 2UE had breached the standard licence condition set out at subsection 8(1) of Schedule 2 to the BSA, requiring that the licensee will comply with program standards applicable under Part 9 of the BSA. As the Disclosure Standard is a program standard made under Part 9, and the ACMA found that the licensee breached the standard on 13 occasions, the ACMA also found that the licensee breached the standard licence condition on 13 occasions.

The ACMA applied to the Federal Court in November 2008 for a civil penalty order to be made under section 205F of Division 2 of Part 14B of the BSA against Radio 2UE Sydney Pty Ltd for breach of the licence condition. The matter was heard in March 2009 and a decision was expected to be made early in the 2009–10 reporting period.

Spectrum planning

In 2008–09 the ACMA continued a number of initiatives to promote increased consultation, transparency and accountability in its radiofrequency spectrum planning and management. These initiatives included:

- > the release of the *Five-year Spectrum Outlook 2009–2013*
- > the release of the Australian Radiofrequency Spectrum Plan
- > the continued operation of the Radiocommunications Consultative Committee
- > the finalisation of spectrum management principles that the ACMA proposes to use in its management of the radiofrequency spectrum.

During the year, the ACMA announced a number of proposals for future spectrum arrangements in the 400 MHz band, including a harmonised band for government use and measures to allow more efficient use of this spectrum. The ACMA also released a discussion paper regarding the proposed release of wireless access services in regional and remote areas of Australia in the 3.6 GHz band.

In October 2008, the ACMA's extensive analysis and consultation process on wireless access services (WAS) culminated in the release of a paper *Strategies for Wireless Access Services: Consultation Outcomes*. This paper gives a summary of submissions received on previous WAS papers, presents the outcomes of the consultation process and provides information on the additional work necessary for the ACMA to implement its WAS strategy.

The key outcomes of the public consultation are to review the planning and licensing arrangements for spectrum in the 2.5 GHz band and to develop an early solution for broadband wireless access users in regional areas using spectrum in the 3.6 GHz band.

International activities

The ACMA participated in national, regional and international radiocommunications meetings to prepare for the International Telecommunication Union (ITU) World Radiocommunication Conference 2011 (WRC-11). WRCs are held approximately every three to four years to review and amend the ITU Radio Regulations. This year, the ACMA has focused on work assigned to ITU Radiocommunication Bureau Study Groups in preparation for WRC-11.

Research and reporting

The ACMA undertook a range of research into changing use and community attitudes towards communications and media services, and technology and market developments. As well as meeting its statutory obligations, the ACMA's research and reporting program assists the agency in making informed decisions as an evidence-based regulator and understanding the implications that regulation of communications and media markets may create.

The research program explores four broad themes: consumer and audience attitudes and service use, market trends in service developments and supply models, technology developments and economic analysis and regulatory reviews.

Research released in the reporting year included:

Research into community attitudes to radio content

The stage one telephone survey was conducted in January and February 2009 among 1,537 Australians aged 15 years and over and identified radio listening behaviours, the attitudes of listeners to a range of radio content, and listener awareness of the complaints process. A stage 2 online survey for the ACMA commenced in June 2009 into the attitudes of 1,200 commercial radio listeners to specific examples of commercial radio content. The research will inform current reviews of the Commercial Radio Codes of Practice and Guidelines, and the commercial radio program standards that apply to disclosure, advertising and compliance. Results of both surveys are expected to be released in the latter half of 2009.

Australia in the Digital Economy series

The ACMA conducted research examining the drivers and enablers of the digital economy through the attitudes and behaviours of Australian internet users to online security and privacy, digital confidence and skills, the take-up and use of the internet, and factors which influence people's decisions to participate or not participate online. Two reports in this series were released during the year: *Report 1: Trust and Confidence* and *Report 2: Online Participation*.

Convergence and Communications series

Consistent with the ACMA's regulatory responsibilities to make available information and report about the performance of the telecommunications industry, this series examined the use and provision of telecommunications services in Australia.

Telecommunications in Remote Indigenous Communities

This research provides a detailed overview of telecommunications services in remote Indigenous communities, and discusses the factors that may inhibit or enable service availability and use. It assisted the ACMA in its regulatory responsibilities and provided information for a wider audience about the levels of telecommunications service in Indigenous communities.

Conferences and events

RadComms09

The ACMA held its third conference on spectrum management, *RadComms09*, on 29 and 30 April 2009 at the Australian National Maritime Museum, Sydney. The two-day conference attracted a maximum capacity audience of 210 delegates. RadComms conferences are designed to give participants the opportunity to hear the latest spectrum developments, participate in open forums and exchange ideas with radiocommunications professionals from across industry and government.

Spectrum Tune-ups

The ACMA has established one-day Spectrum 'Tune-ups' to provide intermediate interaction with industry between its annual RadComms conferences. In 2008–09, the ACMA held two Spectrum 'Tune-ups' in Brisbane and Canberra. Both focussed on specific radiocommunication sector interests and received an encouragingly positive response from participants.



Chapter 1

About the ACMA

Chapter 1 details the functions, structure and corporate governance that enable the ACMA to perform its role, administer regulations and legislation, and deliver its services.

Functions and responsibilities

The Australian Communications and Media Authority (the ACMA) is a statutory authority within the federal government portfolio of Broadband, Communications and the Digital Economy. Senator the Hon. Stephen Conroy is the minister responsible for the portfolio.

The ACMA is responsible for the regulation of broadcasting, the internet, radiocommunications and telecommunications.

In accordance with the relevant legislation, the ACMA's specific responsibilities include:

- > regulating telecommunications and broadcasting services, internet content and datacasting services
- > managing access to radiofrequency spectrum bands through radiocommunications licence arrangements, and resolving competing demands for that spectrum through price-based allocation methods
- > planning the availability of segments of radiofrequency spectrum bands used by broadcasting services and managing access to that spectrum through broadcasting licence arrangements
- > regulating compliance with the relevant legislation, licence conditions, codes of practice, standards, service guarantees and other safeguards
- > promoting and facilitating industry self-regulatory and co-regulation solutions to emerging issues
- > where necessary, exercising powers to create legislative and other instruments, often in the form of standards or service provider rules
- > facilitating the provision of community information to promote informed decisions about communications products and services
- > reporting on matters relating to the communications industry, including its performance
- > representing Australia's communications interests internationally
- > advising the government on specific matters from time to time.

Revenue collection

The ACMA collects recurring revenue through broadcasting, radiocommunications and telecommunications, taxes, charges and licence fees.

In 2008–09, the ACMA's Departmental Budget funding was \$95.316 million (2007–08: \$97.229 million), the administered revenues charged were \$753.954 million (2007–08: \$703.842 million) (see Figure 1).

Non-regular revenue was raised from market based spectrum allocation, and the auction of **smartnumbers**[®] (desirable free phone and local rate numbers as discussed in Chapter 2). Non-regular revenue for 2008–09 was \$3.188 million (2007–08: \$4.612 million), this includes spectrum allocations raising \$0.110 million (2007–08: \$0.143 million). Since 1997, more than \$3 billion has been raised from spectrum allocation for the Commonwealth (see *Market-based resource management* in Chapter 2).

Structure

The Authority

At 30 June 2009, the Authority comprised the Chairman, the Deputy Chair, one full-time Member, five part-time Members and one Associate Member (see Table 1).

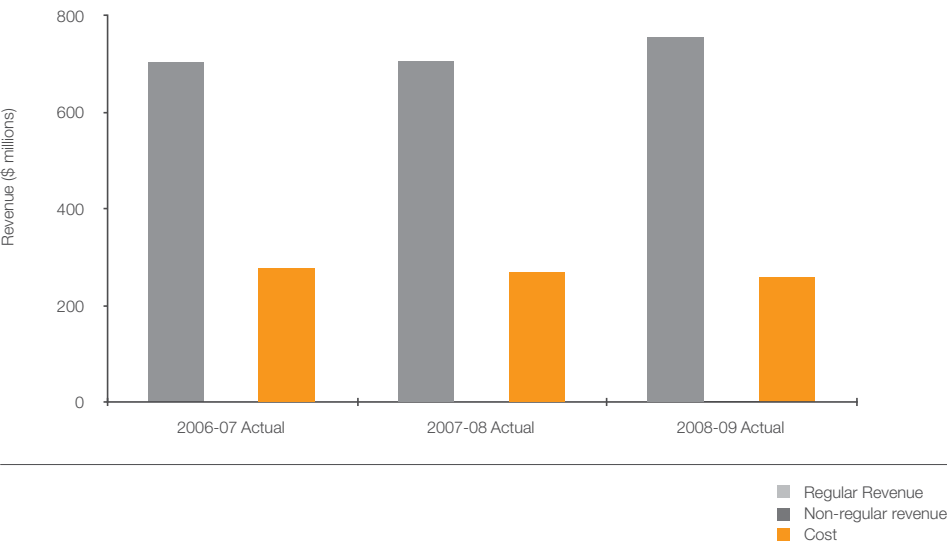
On 1 July 2008, Mr Geoff Luther and Ms Jennifer McNeill joined the Authority as part-time Members. Their appointments are for five years. Part-time Members, Ms Johanna Plante and Mr Rod Shogren, were reappointed to the ACMA, also from 1 July 2008. Ms Plante has been reappointed for two years and Mr Shogren for three years.

From July 2008, Deputy Chair, Ms Lyn Maddock, remained on leave of absence as Interim Chief Executive Officer of Screen Australia, returning to the ACMA in November 2008.

In February 2009, Ms Maddock left the ACMA to become Director of the Australian Antarctic Division in Hobart.

Full-time Authority Member, Mr Chris Cheah, was Acting Deputy Chair from July to November 2008 and from February to June 2009.

Figure 1: Costs and revenues (three financial years)



About the Authority



Chairman and Chief Executive Officer: Chris Chapman

Appointed 27 February 2006 for five years

Chris Chapman commenced as the inaugural Chairman and CEO of the Australian Communications and Media Authority in February 2006. He was also appointed an Associate Member of the Australian Competition and Consumer Commission in September 2007.

Mr Chapman has had an extensive career including leadership roles in the media, broadcasting and film, internet, telecommunications and internet business, sports and the infrastructure sector. Before joining the ACMA, Mr Chapman held a number of senior management positions with Babcock & Brown, Optus, Stadium Australia Management and the Seven Network. Mr Chapman has also been the Chairman of Film Australia and SportsVision Australia, and a previous member of the National Film and Sound Archives' Advisory Council.

Mr Chapman has a Bachelor of Laws and a Bachelor of Commerce from the University of New South Wales and has completed the Harvard Business School Advanced Management Program (AMP).



Deputy Chair: Lyn Maddock

Appointed 1 July 2005 for four years

Lyn Maddock served as the Acting Chair of the ACMA from 1 July 2005 to 27 February 2006. She had previously served as the Acting Chair of the Australian Broadcasting Authority (ABA) and was the Deputy Chair of the ABA from 2000 to 2005. She has broad experience within the public sector, including senior roles with the National Occupational Health and Safety Commission, the Productivity Commission and the Department of Prime Minister and Cabinet, and has also held senior positions with Westpac.

Having taken leave of absence from the Authority in March 2008 to take up the position of Interim Chief Executive Officer of Screen Australia, Ms Maddock returned in November 2008.

In February 2009, Ms Maddock left the ACMA to become Director of the Australian Antarctic Division of the Department of Environment, Water, Heritage and the Arts, in Hobart.



Full-time Member and Acting Deputy Chair: Chris Cheah

Appointed 1 July 2005 for four years

Reappointed from 1 July 2009 for five years

Chris Cheah was previously head of the Telecommunications Division of the Department of Communications, Information Technology and the Arts, advising the government on telecommunications issues. He has also managed accessibility funding programs and held positions with Austel and Telstra. Mr Cheah was Acting Deputy Chair from July to November 2008, while Lyn Maddock was on secondment, and from February to June 2009 after Ms Maddock left the ACMA.

**Part-time Member: Malcolm Long**

Appointed 1 July 2005 for four years

Reappointed from 1 July 2009 for one year

Malcolm Long is the former Executive Director of the Australian Film Television and Radio School and was previously a part-time member of the ABA. He was Managing Director of the Special Broadcasting Service (SBS), and has held various roles with the Australian Broadcasting Corporation, including Deputy Managing Director. Mr Long has also worked for several years as a communications consultant.

**Part-time Member: Johanna Plante**

Appointed 1 July 2005 for three years

Reappointed from 1 July 2008 for two years

Johanna Plante is the former Chief Executive Officer of the Australian Communications Industry Forum. She has held senior positions with KPMG, Telstra, Pacific Star Communications, and Coopers and Lybrand, was a member of Austel and a board member of *Networking the Nation*.

**Part-time Member: Rod Shogren**

Appointed 1 July 2005 for three years

Reappointed from 1 July 2008 for three years

Rod Shogren is a former commissioner with the Australian Competition and Consumer Commission, with a role in telecommunications regulation. He has held a number of senior positions within the public sector and is a consultant for Access Economics.

**Part-time Member: Jennifer McNeill**

Appointed 1 July 2008 for five years

Jennifer McNeill, whose areas of expertise include competition and regulatory law, and consumer protection and litigation, brings a strong regulatory and consumer perspective to the ACMA. From 2002 to 2007, she was a Commissioner at the Australian Competition and Consumer Commission (ACCC), including a term as Commissioner with primary responsibility for consumer protection.

**Part-time Member: Geoff Luther**

Appointed 1 July 2008 for five years

Geoff Luther's expertise and experience is in spectrum regulatory matters and radiocommunications. He acted as a full-time Member of the former Australian Communications Authority from 2003 to 2005 and was awarded the Public Service Medal in 2006 for his work on the development of a comprehensive spectrum allocation system for Australia.



Associate Member: Graeme Samuel

Appointed 9 September 2007 for five years

Graeme Samuel is Chairman of the Australian Competition and Consumer Commission. His previous positions include President of the National Competition Council and Chairman of the Melbourne and Olympic Parks Trust. He was also a Commissioner of the Australian Football League. In 1998, Mr Samuel was appointed an Officer in the General Division of the Order of Australia.

Table 1: The ACMA membership, 30 June 2009

Role	Name	Appointment date
Chairman and Chief Executive Officer	Chris Chapman	27 February 2006 for five years
Deputy Chair	Lyn Maddock	1 July 2005 for four years
	Chris Cheah	1 July 2005 for four years Reappointed from 1 July 2009 for five years
Part-time Member	Malcolm Long	1 July 2005 for four years
		Reappointed from 1 July for one year
Part-time Member	Johanna Plante	1 July 2005 for three years
		Reappointed 1 July 2008 for two years
Part-time Member	Rod Shogren	1 July 2005 for three years
		Reappointed 1 July 2008 for three years
Part-time Member	Jennifer McNeill	1 July 2008 for five years
Part-time Member	Geoff Luther	1 July 2008 for five years
Associate Member	Graeme Samuel	9 September 2007 for five years

*From July to November 2008 and February to June 2009.

Corporate structure

The ACMA's day-to-day activities are managed by an executive team comprising the Chairman, the Deputy Chair, the full-time Member, five General Managers and 14 Executive Managers. The ACMA's corporate structure at 30 June 2009 is set out in Figure 2.

The ACMA's structure reflects the converging nature of the communications environment, providing stakeholders with access to a more cohesive arrangement of responsibilities. It aligns the ACMA's operations to reflect regulatory 'inputs' to industry (including allocation and planning of spectrum, numbering, licensing and technical standards) and the functional 'outputs' from industry that are regulated (including codes, content standards, investigations and consumer issues). This two-part structure is underpinned by corporate, legal, and strategy and coordination areas.

At 30 June 2009, the ACMA employed 617 staff under the *Public Service Act 1999* (the Public Service Act), most of whom are located in the ACMA's offices in Canberra, Melbourne and Sydney. The ACMA also has field offices in Brisbane, Perth, Adelaide and Hobart.

During 2008–09, the ACMA closed its operational centres in Cairns, Townsville, Rockhampton, Coffs Harbour, Newcastle and Wodonga. This followed a decision in mid-2008 to move to a consolidated service delivery model to achieve better operational efficiency.

In May 2009, as part of its review of government expenditure, the Federal Government decided to close the ACMA's Perth and Adelaide offices. The closure of these offices, which will be completed by 30 September 2009, is consistent with the ACMA's new service delivery model.

The ACMA will continue to provide service within acceptable timeframes to all areas of Australia by utilising field staff from the ACMA's Melbourne, Sydney, Canberra, Brisbane and Hobart offices. Contact details for offices are provided in Appendix 1. Detailed information about the ACMA's staff is provided in Appendix 3.

Corporate governance

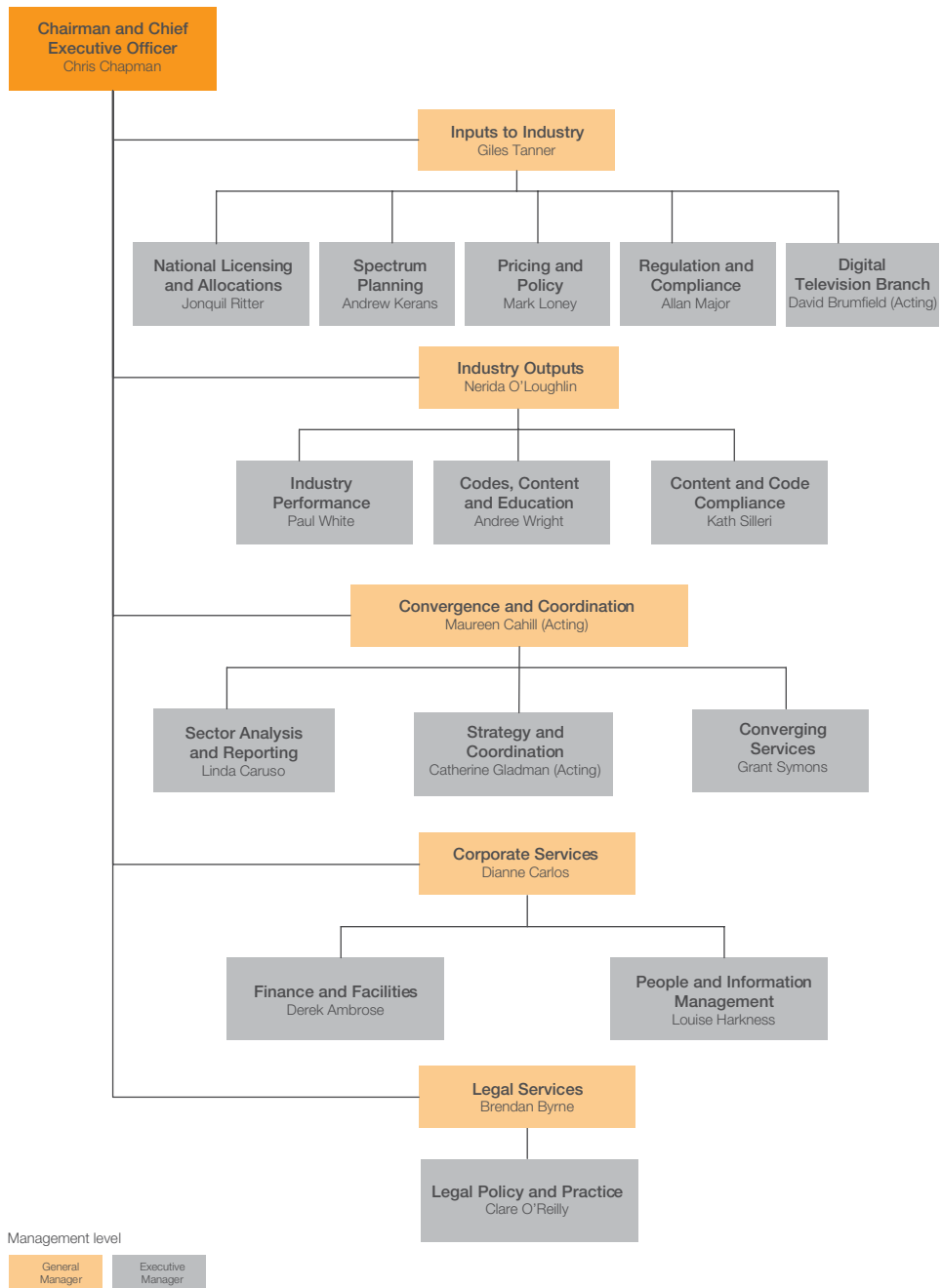
The ACMA's regulatory functions and responsibilities are set out in Part 2, Division 2 of the *Australian Communications and Media Authority Act 2005*. In addition, the ACMA is also regulated by the *Financial Management and Accountability Act 1997*, where responsibility for governance and management of the ACMA resides with the Chairman as the Chief Executive Officer. The ACMA Chairman is also the head of the ACMA for the purposes of the Public Service Act and has the rights, duties and powers of an employer in respect of Australian Public Service employees in the ACMA.

The ACMA Audit Committee provides independent advice to the Chairman on the ACMA's risk, control and compliance framework, as well as its external accountability responsibilities (see Appendix 2). The committee also provides a forum for communication between senior management and the internal auditor (Oakton) and the external auditor (Australian National Audit Office). During 2008–09, the Audit Committee continued to look at key corporate processes. Its work also included a number of performance audits on a range of line area functions.

The ACMA also has a number of other committees dealing with finance, compliance and enforcement, human resources and information technology.

Throughout 2008–09, the ACMA's Executive Group assisted the Chairman in his role as the Chief Executive Officer of the ACMA, by providing assistance on issues of high-level corporate or strategic significance to the ACMA's authority. The Executive Group comprised the Chairman, Deputy Chairman, a full-time Member and five General Managers. Additional information about corporate governance—audit, security and risk management—is detailed in Chapter 4.

Figure 2: Corporate structure of the ACMA at 30 June 2009



Chapter 2

Regulatory environment



Chapter 2 reflects the ACMA's key result areas related to public resource management, diversity of services, and community and national safeguards. The ACMA's responses to the performance information set out below for Outcome 1 can be found throughout the chapter.

Outcome 1:

The ACMA will provide a regulatory environment that supports an efficient communications sector

Output Group 1.1: Effective regulation of the communications industry	
Key Performance Indicators	2008–09 Target
The regulatory framework supports an efficient communications sector while ensuring that public interest objectives are met.	Development of a Spectrum Management Framework.
The collection of annual numbering charges.	Government revenue targets met.
Applications for an opinion on control or temporary approval of a breach of the <i>Broadcasting Services Act 1992</i> (BSA) dealt with within applicable timeframes.	Applications for prior approval processed within 45 days of receipt.
Implementation of the VoIP compliance strategy.	Strategy released by June 2009.
Radiocommunications interference complaints related to safety of life issues dealt with within applicable timeframes.	Complaints processed immediately on receipt.
Output Group 1.2: Planning and licensing of communications services	
Key Performance Indicators	2008–09 Target
The number and adequacy of digital field strength measurements across key television market areas.	In excess of 300 measurement sets across marginal television reception areas.
Progressive identification of television black spots.	Ratio of digital to analog black spots identified.
Identification of primary issues facing key radiocommunications services, and methods ACMA proposes to use to manage these issues.	Publication of the ACMA's <i>Five-Year Spectrum Outlook 2009–13</i> .
Publication of an amended Radiofrequency Spectrum Band Plan.	Publication of the Spectrum Band Plan by 1 January 2009.
The level of marketplace contestability in frequency assignments.	Greater ratio of external frequency assignments relative to ACMA conducted frequency assignments.
The proportion of licensing and numbering transaction applications dealt with within applicable timeframes.	70 per cent of apparatus licence applications requiring frequency assignment within 70 days.
	100 per cent of apparatus licence applications not requiring frequency assignment within 14 days.
	100 per cent of community broadcasting licence renewal applications within 12 months, with 90 per cent of initial assessments within four months.
	100 per cent of geographic number allocations within 10 days.
	Submarine cable permits within 20 days (protection zone) or 180 days (non-protection zone).
The extent of spectrum licensed through class and spectrum licensing.	Increased proportion of spectrum licensed through class and spectrum licensing.
Price-based allocations of spectrum licences completed within statutory timeframes.	Price-based allocations of spectrum completed within two years of reallocation declaration and six months of the minister determining competition rules.

Regulatory functions

As the regulator for broadcasting, the internet, radiocommunications and telecommunications, the ACMA's responsibilities include promoting self- and co-regulation and competition in the communications industry, while protecting consumers and other users, fostering an environment in which electronic media respect community standards and respond to audience and user needs, managing access to the radiofrequency spectrum, and representing Australia's communications interests internationally.

The ACMA's regulatory functions are set out in Part 2, Division 2 of the *Australian Communications and Media Authority Act 2005* (the ACMA Act).

The ACMA's responses to convergence and regulatory pressures

Under the ACMA Act, one of the ACMA's functions is to inform itself and advise the Minister for Broadband, Communications and the Digital Economy about technological advances and service trends in the broadcasting, internet and datacasting industries. Another of its functions is to report to and advise the minister about the telecommunications industry and matters affecting consumers of carriage services. The ACMA also monitors and reports to the minister on the operation of a number of Acts he administers, as specified in Sections 8, 9 and 10 of the ACMA Act. The ACMA continues to monitor and research the rapidly changing communications and media environment to support these functions.

The ACMA's analysis of convergence and regulatory pressure (which is a component of its monitoring and research activity) is becoming an increasingly important input to the ACMA's regulatory development activity. Since its formation in 2005, the ACMA has adopted a multi-dimensional approach to address the impact of convergence and other changes in the policy environment on the effectiveness, efficiency and appropriateness of regulatory settings under the existing legislative framework.

The ACMA will continue to respond to the regulatory issues convergence raises, in order to facilitate the effectiveness, efficiency and appropriateness of regulatory settings.

Ownership and control

The ACMA monitors and investigates broadcasting industry compliance with the media diversity and media control rules.

Its monitoring role includes the handling of applications for prior approval of temporary breaches of control rules and opinions on control arrangements for a given company under Divisions 1, 2, 3, 5 and 5A of Part 5 of the *Broadcasting Services Act 1992* (the BSA or Broadcasting Services Act). This work involves maintaining a number of registers and reports on current control arrangements, including the Register of Controlled Media Groups and the Associated Newspaper Register.

Register of Controlled Media Groups

A core component of the ownership and control rules is the Register of Controlled Media Groups (RCMG). The RCMG provides information to industry and the community on the existence of registrable media groups in licence areas across Australia. The RCMG lists the media groups in each commercial radio licence area, the media operations that form part of each group and the controllers of those operations. During 2008–09, the ACMA continued to keep the register and associated media reports up-to-date and publicly available.

Entries in the RCMG

The RCMG contains entries for registered media groups in each radio licence area. An entry in the RCMG lists the media operations that form part of a group and the controllers of those operations.

While an entry for a media group is unconfirmed, or if a removal or alteration of an entry for a group is unconfirmed, the entry for the group includes a note indicating the unconfirmed status. The RCMG also includes explanatory notes to assist users.

Updates to the RCMG

Commercial television and commercial radio licensees and publishers of newspapers associated with a licence area are required to notify the ACMA of any changes in control within five days of becoming aware of those changes. Persons who come into a position to exercise control of such licences and associated newspapers are also required to notify the ACMA within five days of becoming aware of coming into that position.

The ACMA updates the RCMG when it is notified of relevant changes in control. Provided that a transaction creating a new group does not result in an unacceptable media diversity situation or an unacceptable three-way control situation, the ACMA updates the RCMG with an unconfirmed entry within two days of receiving notification. The ACMA then reviews and confirms or cancels the unconfirmed entry within 28 days. Similar requirements apply to the removal and alteration of entries.

An unacceptable media diversity situation will arise if there are fewer than five points in any metropolitan licence area or fewer than four points in any regional licence area. In general, each registrable media group constitutes one point, as does each separate media operation that is not part of a registrable media group.

An unacceptable three-way control situation exists if a person is in a position to exercise control of a commercial television licence, a commercial radio licence and an associated newspaper in the one radio licence area.

The ACMA supplements the information in the RCMG with media control reports. In addition to the registered media groups in each radio licence area, the reports include the ungrouped media operations and a guide to the points in each radio licence area.

Compliance with ownership and control provisions

Notices

Under sections 61AN, 61ANA and 70 of the BSA, if the ACMA is satisfied that there is an unacceptable media diversity situation or an unacceptable three-way control situation, or that a person is in breach of the ownership and control rules, it may, by notice in writing, direct a person or, in some cases, the licensee, to take action so that the situation ceases to exist or the person is no longer in breach.

The ACMA issued one notice under section 70 of the Broadcasting Services Act to 11 CVC Group entities on 10 October 2008. This notice was subsequently revoked, by notice, on 2 April 2009 (see *Full Federal Court decision relating to protection from Part 5 BSA control limits* on page 22).

Annual notifications

By 30 September each year, commercial television and radio licensees, and the publishers of the newspapers listed in the ACMA's Associated Newspaper Register, must provide the ACMA with a list of all persons in a position to exercise control of the licence or newspaper as at 30 June of that year.

The ACMA monitors compliance with this annual reporting requirement and takes enforcement action if it identifies any non-compliance. Of the 363 licensees and publishers of newspapers required to provide the ACMA with annual returns by 30 September 2008, 343 provided their returns on time and 20 provided them after that date. Eighteen of the 20 late notifications related to one media group and were less than two days late. The other two related to one entity and were 12 days late. The information provided in the annual returns is used to monitor the ownership of media assets and is reflected in the RCMG.

Notifications of changes in control

Members of the public can find out about changes in ownership and control through the ACMA's notifications registers and the RCMG. Reports based on these registers are available on the ACMA's website.

Section 63 of the Broadcasting Services Act requires each commercial broadcasting licensee and each publisher of an associated newspaper to notify the ACMA when a person has come to be, or ceased to be, in a position to exercise control of the licence or newspaper. The licensee must do this within five days of becoming aware of the event. Similarly, section 64 of the Broadcasting Services Act requires a person who has come into a position to exercise control of a commercial broadcasting licence or an associated newspaper to notify the ACMA within five days of becoming aware of doing so.

The ACMA received notifications of changes in control in respect of 26 events during the reporting period. Some of these notifications were on behalf of a number of controllers/ licensees/publishers and were in respect of a number of licences and/or associated newspapers. Eleven change of control events affected commercial radio, 13 control events affected commercial television and five control events affected associated newspapers. The ACMA amended the notifications registers and RCMG to reflect these changes, making the information available publicly.

Enforcement for failure to comply with notification provisions

Under Part 14E of the Broadcasting Services Act, an infringement notice officer authorised by the ACMA can issue a formal warning (under section 205XA) and this may be followed by an infringement notice (under section 205Y) where the officer has reasonable grounds to believe that a person has contravened a notification provision (sections 62, 63 and 64).

The penalty specified in an infringement notice must be \$6,600 if the addressee of the notice is a commercial television broadcasting licensee, otherwise the penalty specified must be \$1,100 in a notice.

In the reporting period, 32 formal warnings were given under section 205XA of the Act and 42 infringement notices were given under section 205Y of the Act, with infringement notices for some formal warnings still under consideration at 30 June 2009. All penalties imposed under the 42 infringement notices were paid.

Applications for prior approval

During the reporting period, the ACMA approved two applications for prior approval under section 67 by directors of companies in respect their appointment to the board of Macquarie Financial Holdings Limited. In addition, the ACMA granted one extension of time of an approval period specified under section 67, pursuant to section 68 to Macquarie Media Holdings Limited (MMH) and related companies, and granted further associated section 68 extensions to directors of MMH and related companies. One section 67 application in respect of a number of applicants was refused in the reporting period.

All applications for prior approval were considered within the statutory periods as applicable.

In addition, the ACMA may be asked under section 74 to provide opinions on control within 45 days of receiving an application. No such applications were received within the reporting period.

Full Federal Court decision relating to protection from Part 5 BSA control limits

Section 53 of the BSA prohibits control of more than one commercial television broadcasting licence in the same licence area. Section 73A enables a section 38B licence to be disregarded, in certain circumstances, for the purposes of determining whether a person is in breach of the one commercial television broadcasting licence to a market rule. Section 38B allows the existing commercial television licensees in markets with two licences to apply jointly for an additional commercial television licence in the relevant market. On 12 January 2009, the Full Federal Court handed down a decision which extended the protection offered by section 73A. It held that a controller is protected from the control rule limits even if it was not in a position to exercise control of a section 38B television licence at the time it was allocated.

As a result of this decision of the Full Federal Court, MMH was no longer required to comply with a section 67 notice issued by the ACMA in 20 July 2007, requiring that it divest itself of a controlling interest in a commercial television licence in both Darwin and Tasmania as it was protected by the application of section 73A.

The Full Court's decision also affected the CVC Group entities which control two commercial television licences in Darwin, one of which is a commercial television licence allocated under section 38B. As a result of the Full Court's decision, on 1 April 2009 the ACMA revoked a section 70 notice given to the 11 CVC Group entities requiring the divestiture of one of its commercial television licences in Darwin.

Provisions of opinions on control

Under section 74 of the Broadcasting Services Act, an applicant can request that the ACMA give an opinion on whether a person is in a position to control a licence, a newspaper or a company. The ACMA must provide an opinion within 45 days of receiving the request, otherwise it is taken that the ACMA's opinion accords with the applicant's. This time may be extended if the ACMA requires further information from the applicant. Opinions on control are available on payment of a fee. The ACMA did not receive any requests for such opinions during the reporting period.

Associated Newspaper Register

Under section 59 of the Broadcasting Services Act, the ACMA is required to maintain a public register of newspapers that are 'associated' with commercial radio or commercial television broadcasting licence areas.

The Associated Newspaper Register is relevant to determining the composition of registrable media groups and assists the ACMA and industry in monitoring compliance with the media diversity requirements under Division 5A of Part 5 of the Broadcasting Services Act. The register is on the ACMA's website.

Local content Regional television

An additional licence condition for some regional commercial television broadcasting licensees in Queensland, New South Wales and Victoria required them to broadcast minimum amounts of material of local significance (local content) from 1 February 2004. The minimum amounts of local content must comprise at least 720 points per six-week period and a minimum 90 points per week. Points accrue on the basis of two points per minute for local news, and one point per minute for other local content material, excluding paid advertising. This licence condition was imposed by the former Australian Broadcasting Authority in response to community concerns.

This additional television licence condition was imposed on licensees broadcasting in these licences:

- > Seven Qld, Southern Cross and WIN TV in regional Queensland
- > NBN Ltd, Prime Television and Southern Cross in northern New South Wales
- > Prime Television, Southern Cross and WIN TV in southern New South Wales
- > Prime Television, Southern Cross and WIN TV in regional Victoria.

Amendments to the Broadcasting Services Act passed in 2006 required the ACMA to impose a licence condition from 1 January 2008, specifying a minimum level of material of local significance for Tasmanian commercial television broadcasting licensees. This also covered those mainland licensees in regional Queensland, New South Wales and Victoria previously subject to such requirements.

Implementation of this legislative requirement involved the ACMA repealing the Broadcasting Services (Additional Television Licence Condition) Notice 7 April 2003 and imposing two new licence conditions.

The Broadcasting Services (Additional Television Licence Condition) Notice 8 November 2007 provides a seamless transition for affected licensees in regional Queensland, New South Wales and Victoria, whose obligations to broadcast material of local significance are essentially unchanged. It also extends these obligations to the two main Tasmanian commercial television broadcasting licensees, Southern Cross and WIN.

The Broadcasting Services (Additional Television Licence Condition – Digital Mode Transmission) Notice 8 November 2007 provides an alternative treatment for Tasmanian Digital Television (a digital-only service), for a limited period, before it is subject to the same requirements as other affected licensees.

Tasmanian Digital Television is required to accumulate a minimum level of points for material of local significance (only 120 points in a calendar year), which is lower than for other affected licensees. This alternative treatment will apply for up to five years, as an interim measure pending the switch-off of analog television services in Tasmania.

For all three commercial television broadcasting licensees in Tasmania, the 'local area' is defined by these new licence conditions to be the Tasmania licence area.

Based on figures provided to the ACMA by the licensees subject to the condition under a self-reporting scheme, all licensees met the quota requirements for 2008 calendar year.

Regional radio

Local content—all regional commercial radio broadcasting licensees

Under the Broadcasting Services (Additional Regional Commercial Radio Licence Condition – Material of Local Significance) Notice 19 December 2007 (Local Content Licence Condition) which commenced on 1 January 2008, all regional commercial radio licensees have been required to broadcast material of local significance between 5.00 am and 8.00 pm on business days in the following amounts:

- > remote area service licences and racing service licences must broadcast five minutes of such material
- > section 40 and small licences must broadcast 30 minutes
- > other regional commercial radio licences must broadcast three hours.

Annual reports on compliance with the Local Content Licence Condition are due by 30 September each year.

According to licensees' inaugural annual reports for the period from 1 January to 30 June 2008, all regional commercial radio broadcasting licensees broadcast the required amount of material of local significance, with the exception of two licensees. The two licensees' radio stations were off the air during the period because of technical issues or natural disasters.

Trigger-event related local content and local presence obligations

Since April 2007, licences affected by a trigger event (as defined in the Broadcasting Services Act) have been required to comply with the Broadcasting Services (Additional Regional Commercial Radio Licence Condition – Local Presence) Notice 22 March 2007, and with statutory minimum service standards for local news and information. Draft local content plans must be given to the ACMA within 90 days of a trigger event and annual compliance reports within three months of the end of the financial year. Local content plans approved by the ACMA are kept on an electronic register available on the ACMA's website. There were 89 licensees affected by trigger events to 30 June 2009.

A trigger event is:

- > the transfer of a regional commercial radio broadcasting licence
- > the formation of a new registrable media group where a regional commercial radio broadcasting licence is in the group
- > a change of controller of a registrable media group where a regional commercial radio broadcasting licence is in the group.

Annual local content plan compliance reports and annual compliance reports under the local presence licence condition are due by 30 September each year.

Trigger-event affected licensees reported to the ACMA that, during the period from April 2007 to 30 June 2008, they complied with their approved local content plans and the requirement to maintain the existing level of local presence after a trigger event occurred. The existing level of local presence in relation to a regional radio broadcasting licence refers to the average monthly staff levels and broadcast hours produced using studios and production facilities in the licence area over the three-month period ending on the Saturday before a trigger event occurs for the licence.

The ACMA's compliance strategy is based on mandatory reporting and complaints. As the electronic register of approved local content plans is available from the ACMA's website, performance against obligations is transparent, enabling the public as well as the ACMA to consider compliance issues.

The ACMA did not receive any complaints concerning the local content and local presence obligations in the reporting period.

Broadcasting Financial Results

The ACMA requests that commercial television and commercial radio licensees submit details of their financial performance each year.

Licensees provide information on revenue, expenses, profits, assets and liabilities for each of their broadcasting services. For some years, the ACMA has aggregated the information and published it as *Broadcasting Financial Results* (BFR).

Details on the 2006–07 financial performance of the 274 commercial radio and 54 commercial television licensees in metropolitan and regional Australia were released in August 2008 and are available in the *Broadcasting Financial Results 2006–07*.

The ACMA is currently undertaking a review of BFR to determine whether it will continue to produce this data, and if so, in what form. A decision on whether to produce BFR for 2007–08 is on hold pending the outcome of the review.

Digital broadcasting

Digital television

On 19 October 2008, the minister released a timetable for the switchover to digital television. The first area where analog free-to-air television signals will be switched off will be in the Mildura-Sunraysia licence area in north-west Victoria during the first half of 2010. The rest of Australia will follow a rolling timetable with the last areas to be switched off by 31 December 2013.

The completion of switchover will mean the end of all analog television broadcasting. The transition to digital means all viewers will need to use digital receiving equipment to receive free-to-air broadcast television.

As the regulator responsible for spectrum management and broadcasting, the ACMA has a number of responsibilities related to the digital switchover. The ACMA worked closely with the Digital Switchover Taskforce and related areas of the Department of Broadband, Communications and the Digital Economy (DBCDE) during 2008–09, providing technical expertise and regulatory advice.

The ACMA also has regulatory responsibilities relating to the roll-out of commercial television broadcasting services in digital mode in remote licence areas. In 2008–09, the ACMA completed work facilitating the transmission of commercial television broadcasting services in digital mode in remote licence areas in Western Australia.

For information about standards and codes for digital television, Electronic Program Guides and the digital television receiver standard, see Chapter 2, page 57.

ACMA Chairman, Chris Chapman, addressing industry representatives at the Get Ready for Digital TV conference, Sydney, 30 March 2009.



Spectrum planning

The ACMA has completed the planning of spectrum, allocation of frequencies, and issuing of licences that have enabled most television broadcasters to roll out digital services during the first phase of digital television—the analog/digital simulcast period.

The ACMA is doing technical work to support the government's consideration of the digital dividend through which spectrum will become available as a result of the shut-off of analog television broadcasts.

See also *Standards and codes for digital television* in Chapter 2.

Signal measurement and field analysis

A multifaceted television coverage evaluation program has been continued in 2008–09. This program contributes to identifying transmission infrastructure issues that would otherwise prevent the transmission of digital television broadcasting from achieving the objectives relating to same level of coverage and potential reception quality. As part of the planning process, the ACMA requires broadcasters to identify any potential transmission issues that may need to be addressed in order to achieve the objectives relating to same level of coverage and potential reception quality.

The ACMA has an active measurement program to support the evaluation program. This measurement program has the capacity to identify potential coverage issues including areas of potential reception difficulties. The ACMA also has regular and ongoing dialogue with the senior broadcasting engineers from the commercial and national broadcasters and their infrastructure providers. This dialogue takes place directly and in various professional forums.

As at 30 June 2009, the ACMA has taken measurements at over 1,700 sites across Australia. These measurements will provide detailed information about the performance of digital television under a variety of conditions.

Reception deficient areas (black spots) for analog television have formerly been identified through the introduction of self-help retransmission services, the Television Black Spots Program (TVBSP) and the Digital Television Black Spots – Alternative Technical Solutions (ATS) program. Under the digital television conversion schemes, broadcasters must provide the same level of service coverage and potential reception quality in digital mode as they have in analog mode. This requirement does not extend to analog self-help services, TVBSP or ATS areas. The Digital Switchover Taskforce is working with broadcasters to address the issue of signal deficiency in these areas.

The ACMA has reported the status of those areas as part of the government's statutory reporting on digital television coverage, and will continue to report specific areas of deficient reception identified through signal measurement programs now underway.

Research and reporting

The ACMA published the findings from the Household Television Environment Research in February 2009 and commissioned new consumer research in the Mildura-Sunraysia television broadcast licence area into technical issues encountered by householders when switching to digital television.

Household Television Environment Research 2007–08

Woolcott Strategic Research conducted research for the ACMA in late 2007 and early 2008 into the television set-ups in 120 Sydney homes. The study, released in February 2009, identified the language used by householders when describing their television set-ups and provided a range of case studies to help identify issues consumers may face in switching to digital television. Issues identified included the age and condition of antennas and the general lack of knowledge about connecting additional equipment to television sets.

Mildura-Sunraysia household research into technical issues switching to digital television

The ACMA is conducting research into technical issues encountered by Mildura-Sunraysia householders when switching to digital television to help inform advice provided by the ACMA and other agencies to consumers who are encountering problems switching to digital television.

Ipsos CT Media is conducting the research which involves a sample of more than 1,500 households in the region. The research will provide more detailed information about the kinds of issues encountered by households when making the switch, and how these issues were fixed, if they have been fixed. Findings from the research are expected to be released later in 2009.

Report on digital television transmission and reception

The ACMA contributes to reports tabled by the minister as required under cl. 5H of Schedule 4 to the BSA which states:

On the first sitting day of each House of the Parliament after each 1 January, 1 April, 1 July and 1 October from 1 April 2009 until 1 September 2014, the minister must cause a report to be laid before each House of the Parliament containing the following information:

- (a) action taken to identify and rectify transmission infrastructure that would otherwise prevent the transmission of free to air television broadcasting services in SDTV digital mode in any area achieving the same level of coverage and potential reception quality as was achieved by the transmission of those services in analogue mode; and
- (b) the local market areas and regions where transmission issues have been identified and how many households will be affected.

The ACMA's contribution to the first report has been provided to the DBCDE. Subsequent contributions will be provided in accordance with timeframes established between the Department and the ACMA.

Digital television commencement—Remote licence areas

Digital television commencement dates in remote Western Australian licence areas

The ACMA is required, under s. 138 of the *Commercial Television Conversion Scheme 1999*, to determine the date, for remote licence areas, by which each commercial television broadcasting licence holder for the remote licence area is required to commence transmitting their commercial television broadcasting service in standard definition television (SDTV) digital mode in that licence area (the digital television commencement date).

In 2008–09, the ACMA determined that the digital television commencement dates for each of the following remote Western Australian licence areas would be 30 June 2009:

- > Remote and Regional Western Australia TV1
- > South West and Great Southern TV1.

Allocation of additional 'digital only' commercial television broadcasting licences in remote Western Australian licence areas

Under s. 38B of the BSA, the ACMA may allocate additional commercial television broadcasting licences in markets that have only two existing commercial television broadcasting licences in force. A commercial television broadcasting licence that is allocated under s. 38B (a s. 38B licence) may only provide a commercial television broadcasting service in digital mode.

In 2008–09, the ACMA allocated one s. 38B licence to each of the following remote Western Australian licence areas:

- > Geraldton TV1
- > Kalgoorlie TV1
- > South West and Great Southern TV1
- > Western Zone TV1.

Digital radio

Introduction of DAB+ digital radio

Digital radio services using the DAB+ standard are set to commence operation in Adelaide, Brisbane, Melbourne, Perth and Sydney from July 2009 as a result of the ACMA's planning of the spectrum, and licensing of the multiplex transmitters.

The ACMA declared 1 July 2009 as the digital radio start up day, the latest possible date allowed for by the legislation, to allow the commercial multiplex operators the maximum time to get transmission facilities constructed. The declaration has no effect on national and community radio broadcasts which may commence at any time in the above mentioned areas.

In December 2008, the ACMA completed variation of the digital radio channel plans to allow the multiplex transmitters to operate at higher power levels than initially allowed in plans completed a year earlier. This work was undertaken in response to industry concerns that the coverage that would be achieved under the initial plans may not be sufficient. The work on the variation was complex and sought to maximise the opportunity for the multiplex licensees to increase power while limiting to risk of interference to other services.

Due to this additional work on metropolitan area digital radio, no work was undertaken on planning digital radio for regional areas. The ACMA has undertaken a small amount of work regarding spectrum availability for regional trials which commercial radio broadcasters are considering undertaking in 2009–10.

Additionally, the ACMA amended the Broadcasting Services (Technical Planning) Guidelines 2007 to incorporate guidelines relating to digital radio. Licensees must comply with these guidelines in their planning and implementation of each transmitter while meeting the planning envelope conditions set by the digital radio channel plan.

Spectrum planning

The ACMA plans and manages the radiofrequency spectrum in Australia. It is responsible for compliance with licensing requirements and investigating complaints of interference to services. The scope of the ACMA's role includes spectrum planning, apparatus licensing, class licensing, spectrum licensing, auctions and trading, and satellite communications and space systems regulation.

As in many other countries, Australia must constantly address the balance between increasing demands for access to spectrum by new technologies and uses and the legitimate requirements of existing users for ongoing use of spectrum. It must also address the balance between government use of the spectrum and its availability for use by the broader community. The ACMA continues to work to balance the competing demands of such new uses, and those of the defence and essential services sectors, with the broader community requirements for access to spectrum.

In 2008–09, the ACMA announced a number of proposals for future spectrum arrangements. A key development was in the 400 MHz band, including a harmonised band for government use and measures to allow more efficient use of this spectrum. Another key activity was the publication of a discussion paper on the proposed release of the 3.6 GHz band for broadband wireless access services in regional and remote areas of Australia.

In 2008–09, the ACMA continued a number of initiatives to promote consultation, transparency and accountability in its radiofrequency spectrum planning and management. These initiatives included:

- > the release of the *Five-year Spectrum Outlook 2009–2013*
- > the release of the Australian Radiofrequency Spectrum Plan on 1 January 2009
- > the continued operation of the Radiocommunications Consultative Committee
- > the finalisation of spectrum management principles that the ACMA proposes to use in its management of the radiofrequency spectrum.

In its release of the *Principles for spectrum management*, the ACMA also published its spectrum management decision framework. This is shown at Figure 2.

Principles for spectrum management

The ACMA released its finalised *Principles for spectrum management* on 31 March 2009. The key theme of the principles is that maximising the overall public benefit from use of the radiofrequency spectrum requires balanced application of both regulatory and market mechanisms.

The aims of the principles are to improve the efficiency of spectrum management and maximise opportunities for current and future licensees.

The principles are:

- > allocate spectrum to the highest value use or uses
- > enable and encourage spectrum to move to its highest value use or uses
- > use the least cost and least restrictive approach to achieving policy objectives
- > to the extent possible, promote both certainty and flexibility
- > balance the cost of interference and the benefits of greater spectrum utilisation.

The principles are an integral part of the ACMA's Spectrum Management Framework. The development of a Spectrum Management Framework was the 2008–09 target for the ACMA's key performance indicator: *The regulatory framework supports an efficient communications sector while ensuring that public interest objectives are met.*

Concurrent with the release of the principles, the ACMA also released the *Response to submission on the draft spectrum management principles*. This paper provides more information on the principles and the ACMA's views on related issues raised by stakeholders in their consultation submissions.

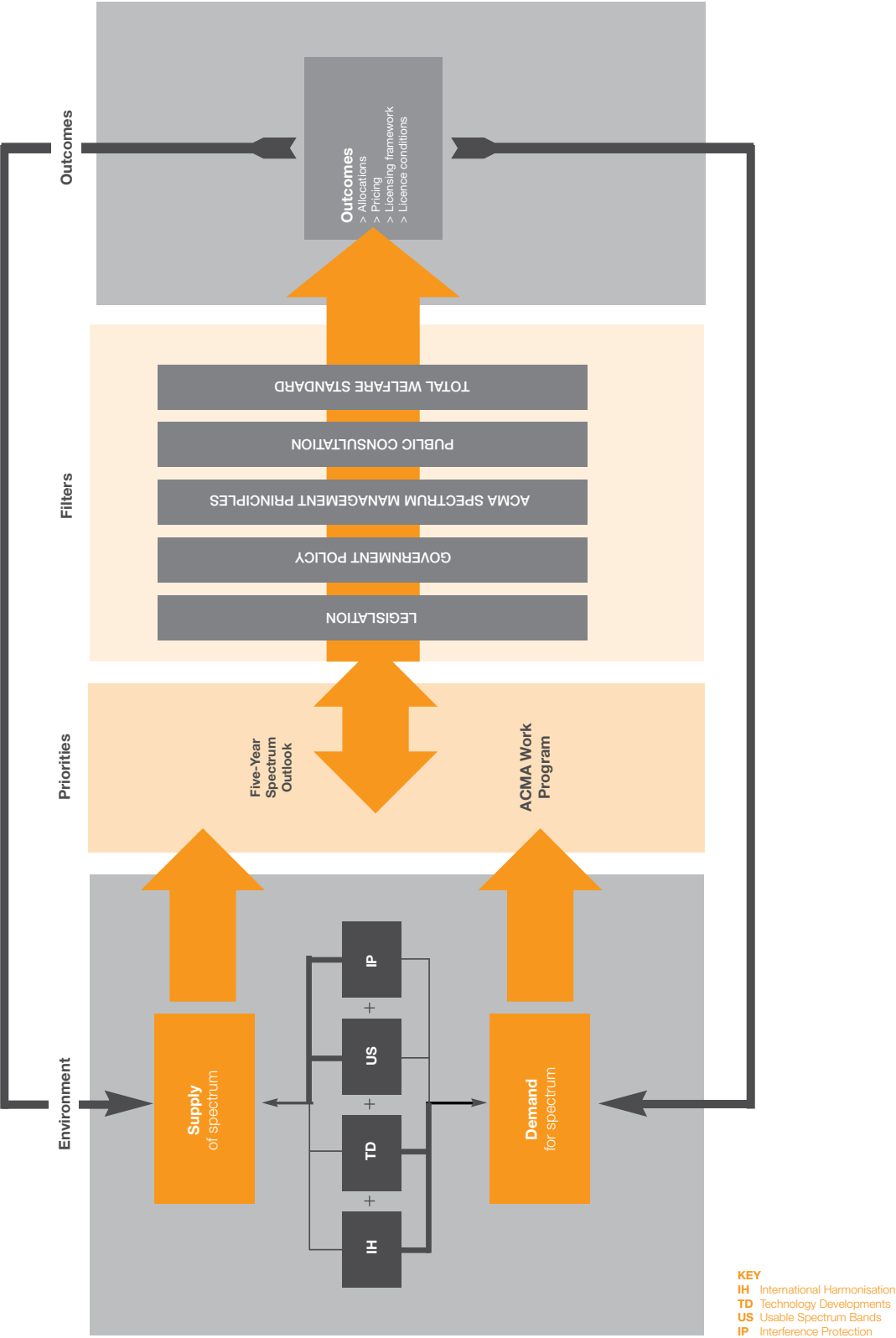
Prior to publication of the principles, the ACMA conducted public consultation on draft spectrum management principles. The ACMA received 42 submissions to the discussion paper from members of the telecommunications, radiocommunications and broadcasting industries, Commonwealth and state government departments, research organisations and industry associations.

Following consultation, some changes were made to the draft principles to respond to concerns raised in submissions. These included that:

- > licensees could somehow be forced to trade spectrum
- > the ACMA may pursue changes to enhance flexibility at the expense of certainty for licensees
- > the principles did not place sufficient importance on consultation between the ACMA and the public.

Further information regarding spectrum allocations in 2008–09 can be found in the *Allocations and licensing* section of Chapter 2.

Figure 2: ACMA Spectrum management decision framework



Radiocommunications

Stakeholder engagement

Radiocommunications Consultative Committee (RCC)

The RCC was established in November 2007 to facilitate consultation between the ACMA and industry on major domestic and international radiocommunications issues. During the reporting period the RCC met in September 2008 and March 2009, and discussed issues including the Square Kilometre Array (SKA), review of the 400 MHz band and radiocommunications industry training initiatives.

RadComms09

The ACMA held its third conference on spectrum management, *RadComms09*, on 29 and 30 April 2009, at the Australian National Maritime Museum, Sydney.

The two-day conference attracted a maximum capacity audience of 210 delegates. RadComms conferences give participants the opportunity to hear about spectrum developments, participate in open forums and exchange ideas with radiocommunications professionals from across industry and government. RadComms continues to be a successful forum that attracts high-quality participants from across industry and government.

Spectrum Tune-Ups

The ACMA has also undertaken one-day Spectrum 'Tune-ups' to provide more focused interaction with industry on particular topics of interest between its annual RadComms conferences.

In 2008–09, the ACMA held two Spectrum 'Tune-ups'—the first on 15 October 2008 in Brisbane, and the second on 24 February 2009 in Canberra. Both covered specific radiocommunication sector interests and received a positive response from participants.

The major topics covered included:

- > wireless access services
- > review of the 400 MHz band
- > update of the Australian Radiofrequency Spectrum Plan
- > 2.3 GHz marketing plan and allocation update
- > 4.9 GHz public protection and disaster relief
- > spectrum trading.

International activities

The ACMA participated in national, regional and international radiocommunications meetings to prepare for the International Telecommunication Union (ITU) World Radiocommunication Conference 2011 (WRC-11). WRCs are held approximately every three to four years to review and amend the ITU Radio Regulations. This year, the ACMA has focused on work assigned to ITU Radiocommunication Bureau Study Groups and Working Parties in their studies required for WRC-11.

Australia was represented at the second of five meetings of the Asia-Pacific Telecommunity (APT) to prepare for WRC-11 (APG2011-2). This meeting was held in Hangzhou, People's Republic of China from 22 to 26 June 2009. Fourteen Australian delegates from government and industry organisations participated at APG2011-2, with three ACMA representatives including the Head and Deputy Head of Delegation. At the meeting, Australia was able to foster greater involvement with other APT Administrations in the activities of the APT Preparatory Group. Australia was successful in developing harmonised regional views generally consistent with the Australian Preliminary Positions on WRC-11 Agenda items. The presence of the Australian Delegation was instrumental in achieving this outcome in addition to canvassing our views on matters relating to WRC-11 with other Asia-Pacific Administrations.

Australian participation in ITU Radiocommunication Study Groups is assisted through the Australian Radiocommunications Study Groups (ARSGs). The ARSGs develop inputs to the ITU-R Study Group process and provide advice to the ACMA on international radiocommunications issues associated with WRC-11. During 2008–09, 48 Australian delegates participated in 33 meetings of ITU Study Groups, Working Parties and Joint Task Groups, where 22 Australian contributions were presented.

Five-year Spectrum Outlook 2009–13

The increasing sophistication and growth of new technologies is increasing the demand for spectrum while increasing the opportunity for more productive use of spectrum. The rapid technological change is presenting new challenges to traditional approaches to spectrum management, including the traditional, centralised 'command and control' approach. New technologies provide both additional functionality and allow higher data transfer rates within less bandwidth, enhancing the efficiency of spectrum utilisation.

To assist in communicating with its stakeholders about this increasingly complex task and to help with the strategic management of its work plan, the ACMA has developed the *Five-year Spectrum Outlook 2009–2013*. This document:

- > identifies issues affecting spectrum demand for radiocommunications services over the 2009–2013 timeframe
- > outlines the ACMA's preliminary thoughts on how to best manage demand
- > highlights spectrum requirements that may arise beyond 2013
- > contains the ACMA's indicative spectrum management work programs for the next five years.

The Five-year Spectrum Outlook will assist the ACMA in undertaking its spectrum management activities in an open and consultative manner, and provides stakeholders with greater insight and transparency into the direction of the ACMA's spectrum management activities in the short, medium and long term. The outlook will also facilitate constructive and meaningful discussions between the ACMA and stakeholders about emerging pressures for change to spectrum access arrangements, and will maximise the extent to which stakeholder feedback is taken into account.

Outcomes and performance information

In keeping with Output Group 1.2: *Planning and licensing of communications services*, the ACMA released the *Five-year Spectrum Outlook 2009–2013* on 31 March 2009. The Outlook is a living document and is open to industry comment at all times. The ACMA will review and update the outlook annually to ensure it reflects current demands and priorities.

Review of the 400 MHz band

The ACMA is undertaking a comprehensive review of spectrum management arrangements in the 403–520 MHz band (known as the 400 MHz band) by seeking public and industry comment on options for the future use of the band. The review of the 400 MHz band is consistent with the provision of a regulatory environment supporting an efficient communications sector.

The 400 MHz band is heavily used by both government and non-government users for the land mobile service and for other radiocommunication services including fixed (point-to-point and point-to-multipoint), radiolocation and amateur services.

The review of the band has been undertaken because of increasing pressure from industry and users of the 400 MHz band to establish arrangements that will better accommodate future communication needs through current and emerging technologies. The aim of the ACMA's replanning is to maximise, by efficient allocation and use of the spectrum and technologies, the overall public benefit derived from its use, while continuing to provide adequate spectrum for defence, national security and emergency services.

Among other objectives, an important motivation for reviewing the band is to identify harmonised spectrum to facilitate radiocommunications interoperability between certain government agencies, such as law enforcement and other emergency services.

Following stakeholder engagement in response to its initial public consultation paper, the ACMA released a second discussion paper, *Spectrum Proposals: 403–520 MHz Proposals for future arrangements in the 400 MHz band*, in March 2009. This proposals paper puts forward a range of refined options and proposals for future arrangements in the band to address issues such as band congestion and the identification of harmonised spectrum for government purposes.

The 2.3 GHz band

In January 2009, the ACMA varied the technical framework that applies to spectrum licences in the 2.3 GHz band. The new technical framework incorporates principles of technical flexibility by providing for a broader range of services or technologies not necessarily considered at the time of conversion to spectrum licences. It will facilitate use of the 2.3 GHz band to provide a wide range of advanced communications services. These services include broadband wireless access, data transfer, and the potential for remote control over plant and equipment, and video surveillance. Current spectrum licensees in the band will be provided with updated spectrum licence images reflecting the variation to their licence conditions.

In March 2009, the ACMA also decided to allocate the residual spectrum in the 2.3 GHz band in rural or remote areas of Australia. The ACMA is in the process of finalising the Applicant Information Package and other information associated with the allocation of the residual spectrum via a price-based allocation process. The allocation process is expected to commence early in 2009–10.

Wireless access services

The ACMA's extensive analysis and consultation process on wireless access services (WAS) culminated in the release of a paper *Strategies for Wireless Access Services: Consultation Outcomes* in October 2008. This paper gives a summary of submissions received in relation to the previous WAS papers, presents the outcomes of the consultation process and provides information on the additional work necessary for the ACMA to implement its WAS strategy.

The key outcomes of the public consultation are:

- > to review the planning and licensing arrangements for spectrum in the 2.5 GHz (2500–2690 MHz) band
- > to develop an early solution for broadband wireless access users in regional areas using spectrum in the 3.6 GHz (3575–3700 MHz) band, acknowledging that there will be a need to appropriately address the interests of incumbent users of that band.

Review of 2.5 GHz arrangements

The ACMA is undertaking a review of the planning, licensing and pricing arrangements of the band to maximise the overall benefit from its use. The review is also intended to deliver suitable long term arrangements for incumbent electronic news gathering (ENG) services, whether in the 2.5 GHz band, in other bands or in combinations of bands. Consultation is being undertaken with broadcasters to determine their future requirements and alternative band options.

Possible approaches to future band management include one or more of:

- > reviewing apparatus licence fees to better reflect the changing value of the band
- > changing licensing arrangements in some or all parts of the band to facilitate future changes in use, including by way of spectrum trading
- > conducting a price-based allocation to distribute some or all of the spectrum to its highest value use or uses.

Release of the 3.6 GHz in regional and remote areas of Australia

On 1 April 2009 the ACMA released a discussion paper, *Release of the 3.6 GHz band for wireless access services (WAS)*, to provide context and frame discussion regarding the proposed release of the frequency range 3575–3700 MHz (the 3.6 GHz band) for the allocation of WAS in regional and remote areas of Australia.

The paper:

- > provided background on the release of the 3.6 GHz band and information on incumbency issues in the band
- > outlined the technical issues under consideration to ensure appropriate, technology flexible, coordination criteria are developed for the introduction of WAS
- > outlined the regulatory policy and other issues associated with the release of the 3.6 GHz band, such as licensing arrangements and allocation mechanisms.

The comment period closed on 15 May 2009 and 21 responses were received from stakeholders. The ACMA is in the process of considering these submissions and developing a response paper that will indicate a preferred way forward in releasing the 3.6 GHz band for WAS.

Space regulation

The ACMA has responsibility for fulfilling Australia's obligations as a member of the International Telecommunication Union (ITU). In relation to regulation of space activities, the ACMA supports the filing of Australian satellite networks with the ITU and actively works with prospective satellite operators in meeting these obligations. In addition to filing satellite networks, the ACMA provides the interface with other ITU administrations in coordinating Australia's satellite spectrum requirements.

The ACMA continues to assess publications relating to proposed foreign satellite networks, initiating coordination processes (where necessary) with foreign Administrations concerning their proposed satellite networks with Australian spectrum requirements and responding to their reciprocal requests of Australia. This role assists in protecting Australian interests and maximising the benefits of spectrum/orbital resources through working cooperatively with other ITU Member Administrations.

The ACMA also provides ongoing advice to Australian government agencies and the Australian space community on space radiocommunications. During the reporting period, the ACMA provided advice on:

- > activities of the European Space Agency
- > regulatory matters for Australian satellite operators and the radiofrequency community.

Satellite network filings

The 2008–09 reporting year saw two major new satellite initiatives submitted to the ITU by the ACMA. Four satellite networks were submitted to the ITU on behalf of KaComm Communications Pty Ltd which aims to provide high capacity third generation satellites for the delivery of ADSL2+ equivalent broadband services across Australia. Another satellite network was submitted on behalf of the Department of Defence to support increased demand for access to UHF communications (useful for low rate data and voice communications).

Review of satellite regulation practices and processes

The Radio Regulations of the ITU require its members to be mindful that radio frequencies and satellite orbits are limited natural resources and must be used rationally, efficiently and economically.

To identify potential areas for improvement and to ensure compliance with the Radio Regulations, the ACMA has commenced a review of its practices and processes relating to the filing and coordination of satellite networks (the filing function).

The aim of the review is to refine satellite regulatory practices and processes to support the development and provision of satellite services in and for Australia, in a way that optimises the effective, efficient and equitable assignment and use of an increasingly internationally exploited public resource.

The review will examine:

- > the status of the filing function under the *Australian Communications and Media Authority Act 2005* (Cth)
- > the criteria against which the Authority assesses requests from satellite operators to file details of a proposed satellite network with the ITU
- > the documentation and management of the relationship between the ACMA and satellite operators, including improved performance monitoring and management
- > the regime of fees and charges currently applied to services to support the operation of Australian satellite networks.

The ACMA intends to undertake public consultation regarding this review in 2009–10.

Allocation and licensing

Market-based resource management

Market-based resource management makes a significant contribution to the efficiency of the communications sector. In particular, it contributes to the efficient planning, allocation and use of national resources such as radiofrequency spectrum and **smartnumbers**® (freephone and local rate telecommunication numbers).

Public benefit will be maximised where resources are allocated to their highest value use or uses, that is, the use or uses that maximise the value derived from the resource by licensees, consumers and the wider community. Market-based approaches such as auctions and opportunity cost pricing are generally accepted as the most efficient means of allocating scarce resource to their highest valued use or uses. The ACMA uses market-based approaches to resource management to maximise the efficient allocation and use of resources. In turn, this maximises opportunities for current and future licensees.

Auctions are used to allocate all **smartnumbers®**, as well as spectrum in bands and areas where demand exceeds supply. The ACMA supports a secondary market for trading of spectrum and **smartnumbers®** to re-allocate resources to higher value uses when market values change after the initial allocation by the ACMA. This secondary market supports a dynamic communications sector and helps enable industry to meet the continually changing communications needs of the community. Opportunity cost pricing is an administrative allocation method that aims to mimic the efficiency properties of auctions and is often used when auctions are not appropriate.

Radiocommunications licensing

Apparatus licensing

New licences

Apparatus licences can be issued for any period ranging from one day up to a maximum of five years.

The majority of licences are for one year with annual renewals thereafter.

The ACMA issues some apparatus licences that require frequency assignment co-ordination (assigned licences) and other apparatus licences where no frequency assignment co-ordination is required (non-assigned licences).

The ACMA's key performance indicator (KPI) in relation to the issue of licence applications requiring frequency assignment is to have completed 70 per cent of applications within 70 days of receipt. For those licence applications not requiring frequency assignment, the ACMA has established a KPI of completion of 100 per cent of applications within 14 days of receipt.

During 2008–09, the ACMA exceeded the KPIs for licences requiring frequency assignment with 95.2 per cent of applications being completed within 70 days. The ACMA was slightly under the KPIs for licences not requiring frequency assignment with 98.5 per cent of applications completed within 14 days of receipt. Those applications which were not completed within KPIs resulted from a small number requiring more complex assessment.

In 2008–09, a total of 11,235 new apparatus licences were issued, bringing the number of current licences at 30 June 2009 to 155,251 (see Table 46 in Appendix 5). During the reporting period, 144,016 licences were renewed or carried over as multi-year licences. There are currently 7,822 multi-year licences issued. The number of new licences issued for each of the last three years has ranged from 11,976 in 2006–07, 10,038 in 2007–08 to 11,235 in 2008–09. Over the same period, the annual number of apparatus licences has averaged 11,083.

A total of \$156.9 million in licence tax and charges revenue was collected in 2008–09 (see Table 2).

Table 2: Radiocommunications apparatus licences, 30 June 2009

Type of licence	Revenue 2008–09 \$million
<i>Assigned licences</i>	
Public telecommunications service	68
Fixed	53.6
Land mobile	20.2
Satellite*	4.5
Defence	6.6
Other	2.3
Total assigned licences	155.2
<i>Non-assigned licences</i>	1.7
Total	156.9

*Includes earth, space, earth receive and space receive licences

Price-based apparatus licence allocations

Low power open narrowcasting licences

Every three months, the ACMA offers to allocate low power open narrowcasting (LPON) licences and holds auctions where there are competing applications. LPON licences allow for the provision of niche radio services, such as tourist radio and racing information, or ethnic and religious programming. They operate at very low power outputs and serve relatively small areas. During 2008–09, the ACMA allocated an additional 105 LPON licences, raising revenue of \$55,550.

Amendment of the Mobile Phone Jammer Prohibition to facilitate in-flight licensing arrangements

Following the successful trialling of in-flight services onboard a Qantas passenger aircraft in 2007, the ACMA considered the regulatory arrangements that would be necessary if in-flight mobile phone services were to be deployed commercially. Licensing options could not be developed immediately, as one component of the system used to provide in-flight services was, at that time, a prohibited device.

The Notification that the Australian Communications and Media Authority prohibits the operation or supply, or possession for the purpose of operation or supply, of specified devices 1999, known as the Mobile Phone Jammer Prohibition, declares specified devices to be prohibited. Under the *Radiocommunications Act 1992* (the Radiocommunications Act), the possession, supply or operation of a prohibited device is an offence. In 2008–09 the ACMA amended the Mobile Phone Jammer Prohibition. The amendment created an exemption allowing for the operation of a device if:

- > the device is designed to facilitate a cellular mobile telephone service onboard an aircraft operating within another frequency
- > the device is operated for that purpose.

The draft Mobile Phone Jammer Prohibition Amendment Declaration (the Amendment Declaration) was released for public comment on 15 October 2008 and eighteen submissions were received. The Amendment Declaration was approved by the Authority on the 18 December 2008 and commenced on 21 January 2009.

Amendment of the Mobile Phone Jammer Prohibition does not authorise the operation of devices or the provision of in-flight mobile phone services. These services cannot be provided in Australia unless the ACMA also establishes appropriate radiocommunications licensing arrangements. The ACMA is developing possible licensing arrangements for in-flight mobile phone services and anticipates releasing them for public consultation in 2009–10.

Spectrum licensing

Revocation of re-allocation declarations

The ACMA is no longer able to offer for sale residual lots in the 2 GHz and 3.4 GHz bands. These bands, along with the 800 MHz, 1.8 GHz, 28 GHz and 31 GHz bands, were specified by the minister for spectrum licensing in re-allocation declarations, which were revoked by s 32(2)(b) of the *Legislative Instruments Act*. As a result, any residual lots in these bands no longer exist. Residual lots in other bands, if any, such as the 500 MHz, 2.3 GHz, and 27 GHz bands, continue to be available.

The ACMA is exploring options for making available unallocated spectrum previously covered by the revoked re-allocation declarations.

Spectrum auctions

The ACMA has a quarterly price-based allocation program for spectrum licences in the 500 MHz band. The lots on offer are those remaining unsold following previous price-based allocation processes.

In the 500 MHz band, spectrum is still available in Adelaide, Cairns, Canberra/South Coast, Central West NSW, Newcastle, Northern Rivers, Pilbara, Regional Victoria, South-West WA, Sydney/Wollongong, Tasmania and Townsville.

No applications were received for spectrum licences in the 500 MHz band during 2008–09.

Class licensing

Low interference potential devices

Low interference potential devices include a wide range of low power radio transmitters used by the public every day, such as garage door openers, wireless local area networking equipment and wireless identification tags. Operation of these common devices without individual coordination is accomplished through class licensing. The ACMA's class licensing arrangements provide a no-cost-to-the-user authorisation for the operation of such equipment, without the need for issuing individual licences.

The rapid development of radio technology leads to significant numbers of enquiries from equipment importers who seek the inclusion of new equipment items with class licences. However, before the operation of a device can be covered by a class licence, planning studies must be conducted to determine a set of common characteristics to make sure that the operation of these devices represents a low interference risk to existing Australian radiocommunications services.

In the past 12 months, the ACMA's planning studies have led to two variations to the Radiocommunications (Low Interference Potential Devices) Class Licence 2000 (the LIPD Class Licence). The first variation included the addition of a new class of transmitters - video sender transmitters, which were authorised by the Radiocommunications Miscellaneous Devices Class Licence 1999 (the Miscellaneous Devices Class Licence). The authorisation of video sender transmitters by the LIPD Class Licence enabled the ACMA to simultaneously revoke the Miscellaneous Devices Class Licence. Other changes to the LIPD Class Licence included:

- > the insertion of definitions for DAB (digital audio broadcasting), ERP (effective radiated power), ETSI (European Telecommunications Standards Institute) and maximum EIRP (equivalent isotropically radiated power)
- > the addition of a new class of transmitters for in-store DAB repeaters
- > the addition of a new class of transmitters for in-store pricing systems
- > the addition of a new class of higher power radiofrequency identification (RFID) systems in the 900 MHz band
- > changes to medical implant communications systems transmitters to align ETSI standards to the portion of the band to which they apply
- > removal of a superseded class of radiodetermination transmitters
- > removal of a superseded class of medical implant telemetry systems transmitters.

These changes to the LIPD Class Licence have increased the proportion of spectrum licensed through class licensing.

Cellular mobile phones

The operation of cellular mobile phones is authorised under the Radiocommunications (Cellular Mobile Telecommunications Devices) Class Licence 2002. This class licence was varied to:

- > remove some unnecessary legislative duplication relating to compliance with equipment standards
- > clarify that the class licence, in addition to authorising the operation of mobile phones, also authorises the operation of telecommunications devices such as those used to provide 3G wireless broadband services.

Accredited persons scheme

The ACMA accredits appropriately qualified persons to assist radiocommunications licensees. Accredited persons issue frequency assignment certificates for apparatus licences and interference impact certificates for spectrum licences. The number of accredited persons increased during 2008–09 from 66 to 67 (see Table 3).

Table 4 shows the frequency assignments made by accredited persons and the ACMA assigners over the last five years for apparatus licences. The percentage of assignments made by accredited persons increased by two per cent in 2008–09.

Accredited persons register all devices that require authorisation to operate under a spectrum licence, supporting the self-regulatory approach to spectrum management that spectrum licensing was intended to introduce. This approach allows licensees to take responsibility for much of the administration related to their spectrum licences. In 2008–09, accredited persons registered 21,075 devices operated under spectrum licences.

Operator examinations

Marine radio operator examination services

The Australian Maritime College in Launceston continued to provide marine radio operator examination services on behalf of the ACMA. The college is also responsible for publishing the recommended textbook for candidates undertaking examinations for Marine Radio Operators Certificates of Proficiency. Continued production of the relatively new *Marine VHF Radio Operators Handbook in 2008–09* indicates its usefulness for people preparing for the VHF Certificate of Proficiency examination.

The college is required to report to the ACMA about the marine radio operator examination and certification service by 31 October each year. The report is published on the college website.

Table 3: Accredited persons, 30 June 2005 to 30 June 2009

Number of accredited persons	30 June 2005	30 June 2006	30 June 2007	30 June 2008	30 June 2009
	47	53	57	66	67

Table 4: Assignments registered, 2004–05 to 2008–09

	2004–05	2005–06	2006–07	2007–08	2008–09
Frequency assignments registered by accredited persons	8,245	8,619	10,395	12,260	11,930
	59%	60%	66%	66%	68%
Frequency assignments performed by the ACMA	5,632	5,635	5,424	6,585	5,642
	41%	40%	34%	34%	32%

Note: Figures are for spectrum accesses created for new assigned apparatus licences and include those created for short-term events, such as the Melbourne Grand Prix.

In early 2009, the ACMA initiated a review of regulatory arrangements for VHF marine radio operator qualifications. This was in response to concerns expressed to the ACMA by the National Marine Safety Committee about declining standards in VHF radio use. The review will also support work by the ACMA in preparation for expiry of the Australian Maritime College contract in 2012. To help with the review, the ACMA established an expert working party comprising a range of State and Commonwealth government bodies, as well as non-government bodies, with an interest in marine safety issues. The working party assisted with the development of an external discussion paper planned for release in August 2009. The paper has been developed with the aim of gathering information and views about issues to do with recreational vessels use of VHF radio and relevant regulatory arrangements.

Amateur radio operator examination services

The Wireless Institute of Australia (WIA) has provided examination services to the amateur radio community on behalf of the Australian Government for over fifteen years.

On 28 January 2009, the ACMA signed a new contract with the WIA expanding the range of delegated services it provides on the ACMA's behalf.

The WIA continues to provide amateur examination services but now is also responsible for issuing amateur certificates of proficiency, and administering and making recommendations to the ACMA about amateur call signs. The WIA commenced the issue of amateur certificates of proficiency on 2 February 2009 and commenced making call sign recommendations on 2 March 2009.

The ACMA continues to be responsible for issuing and varying amateur transmitter licences.

During 2008–09 the WIA conducted 1,838 amateur examinations. Table 5 details the number of amateur certificates of proficiency issued based on the results of these examinations. Some amateurs may have needed to successfully undertake more than one examination to qualify for the relevant certificate of proficiency.

The WIA also made 560 recommendations regarding call sign allocation. The ACMA allocated 503 call signs based on these recommendations.

Broadcasting licence area plans and variations

A licence area plan (LAP) relates to broadcasting and is a legislative instrument made up of a determination, schedules and attachments setting out the licence area and the technical specifications for existing and proposed services.

Over the reporting period, the ACMA completed four variations to LAPs (see Table 6).



WIA President Michael Owen (left) and ACMA Chairman, Chris Chapman, signed a contract with the Wireless Institute of Australia for amateur radio services in February 2009.

Table 5: Amateur certificates of proficiency issued, 2008–09

Certificates issued	Foundation	Standard	Advanced
ACMA (to 1 February 09)	377	96	74
WIA (from 2 February 09)	185	46	26

Table 6: Variations to licence area plans—analogue radio

Service area	Purpose of variation
Mudgee, NSW August 2008	The variation changed the transmitter site for commercial service 2GEE FM to improve coverage and reception; extended the southern boundary of 2GEE licence area to include Ilford and Pyramid; and redefined the Mudgee RA1, Mudgee RA2 and Kandos RA1 licence areas using 2001 census data.
Townsville, Qld November 2008	The variation made spectrum available for a national radio service for the Bowen area and changed the technical specifications for the transmitter available for community radio broadcasting into the Bowen area. The Bowen RA1, Palm Island RA1, Townsville RA1, Townsville RA2 and Townsville RA3 licence areas were redefined using 2001 census data.
Charters Towers, Qld November 2008	The variation facilitated a change in the frequency of an open narrowcasting service in Charters Towers so it could operate without interference from a new national service in Townsville. The Charters Towers RA1 licence area was redefined using 2001 census data.
Colac, VIC November 2008	The variation made spectrum available for a national broadcasting service for the Colac area; changed the technical specifications of the community broadcasting service in Colac and redefined the Colac RA1 licence area using 2001 census data.

Government-administered programs

Parliamentary and News Network extension program

During the reporting period, the ACMA provided technical and frequency planning in support of the Australian Government's objective of extending the ABC NewsRadio/Parliamentary and News Network (NewsRadio) service to all transmission areas with a population of 10,000 or more.

This included identifying potential alternative spectrum options for 12 of 22 remaining areas¹ where the ACMA has been unable to identify appropriate spectrum to satisfy the requirements of the ABC for NewsRadio because of FM spectrum congestion in the region and interference issues.

The ACMA initiated and developed Intermediate Frequency (IF) Beat Interference on-air tests, which were undertaken by the ABC. These tests were preceded by extensive laboratory tests to determine the extent of susceptibility of radio receivers to IF Beat interference. The on-air tests conducted in Townsville were successful and delivered the desired outcomes.

The outcomes derived will now facilitate the use of previously barred frequencies in the *ACMA Technical Planning Guidelines* in eight² of the residual areas and will also facilitate the use of additional frequencies that may be available in other parts of Australia for different categories of FM radio services.

The ACMA is also developing an innovative test strategy for trialling an analogue single frequency network (SFNs) in an FM spectrum congested area in NSW. If the two-tier trial succeeds, the outcomes from the tests would form the basis for providing alternative spectrum options in the remaining areas in the next reporting period.

Broadcasting licensing

In 2008–09, the ACMA:

- > issued 15 transmitter licences for national radio and television services
- > issued 55 broadcasting retransmission licences
- > approved 749 applications for out-of-area television
- > issued 104 radio and television test transmission licences
- > varied 66 radio and television apparatus licences
- > issued 107 special event broadcasting licences for radio and television services.

International broadcasting licences

The ACMA received one application for an international broadcasting licence during 2008–09. A licence was issued to TDP/TDP Radio on 27 April 2009.

1 Armidale, Ballarat, Bega/Cooma, Bendigo, Bowen, Bunbury, Central Tablelands, Colac, Darling Downs, Geelong, Goulburn Valley, Grafton/Kempsey, Illawarra, Lithgow, Manning River, Murray Valley, Renmark/Loxton, Southern Downs, Sunshine Coast/Nambour, Tamworth, Townsville, Townsville North, Upper Murray, Upper Namoi and Wide Bay.

2 Armidale, Ballarat, Central Tablelands, Darling Downs, Goulburn Valley, Murray Valley, Townsville and Townsville North.

Temporary community broadcasting licences

The temporary community broadcasting licence (temporary licence) scheme has been in place since 1997. The temporary licence scheme allows the ACMA to allocate non-renewable community radio licences to eligible aspirant broadcasters. Licences are only allocated if spectrum in the broadcasting services bands (BSB) is available for transmission.

The scheme gives:

- > the ACMA flexibility in promoting the efficient and effective use of spectrum
- > aspirant broadcasters the opportunity to develop broadcasting skills before merit-based allocation of planned long-term community broadcasting licences.

During the reporting period, the ACMA allocated 60 temporary licences and there were 65 temporary licences as at 30 June 2009. Temporary licences are allocated for a maximum 12-month period.

Community radio broadcasting licences

Under Part 6 of the Broadcasting Services Act, community broadcasting licences using the BSBs are allocated on the comparative merits of competing applicants and services. The ACMA is not obliged to allocate a community broadcasting licence, even though it has advertised for and received applications.

During the reporting period, the ACMA:

- > Renewed 33 community radio broadcasting licences, of which three were remote Indigenous broadcasting services. Of those renewed, 10 were renewed with agreed measures—8TOP, 5TCB, 4CBL, 4WBR, 3BBR, 3GRR, 3RRR, 3ZZZ, 2CHY, 2HAY
- > Conducted two investigations concurrent with the renewal of a community broadcasting licence—8TOP, 2CHY.
- > Advertised for applications for community radio broadcasting licences in Gosford and Lake Macquarie (NSW) and in Fremantle and Perth (WA).

In addition:

- > two community broadcasting licences were surrendered (4RRR, 2MAQ)
- > one community broadcasting licence lapsed on expiry (4BCB).

The ACMA did not refuse to renew any community broadcasting licences.

There were 350 community radio broadcasting licences as at 30 June 2009, of which 78 were remote Indigenous broadcasting services.

All licence renewal applications were processed within 12 months of receipt by the ACMA. For the financial year, 88 per cent of licence renewal applications were initially assessed within four months of receipt.

Commercial radio broadcasting licences

During 2008–09, the ACMA renewed 54 commercial radio broadcasting licences for services using the BSBs.

No new commercial radio broadcasting licences were allocated for services using the BSBs during the reporting period.

As at 30 June 2009, there were 273 commercial radio broadcasting licences.

Commercial television

During 2008–09, the ACMA renewed seven commercial television broadcasting licences.

The ACMA also allocated one new commercial television broadcasting licences to each of the following remote Western Australian licence areas under s. 38B of the BSA:

- > Geraldton TV1
- > Kalgoorlie TV1
- > South West and Great Southern TV1
- > Western Zone TV1.

Under s. 38B of the BSA, the ACMA may allocate additional commercial television broadcasting licences in markets that have only two existing commercial television broadcasting licences in force. A commercial television broadcasting licence that is allocated under s. 38B (a s. 38B licence) may only provide a commercial television broadcasting service in digital mode.

Other than licences issued under s. 38B of the BSA, the ACMA must not issue new commercial television broadcasting licences in the Broadcasting Services Bands unless directed by the minister, following a review. The initial review must be conducted by the minister before 1 January 2012. The current moratorium on the allocation of new commercial television broadcasting licences extends from 31 December 2006 until the end of digital switch-over, which is currently scheduled for 31 December 2013.

As at 30 June 2009, there were 59 commercial television broadcasting licences.

Community television

Community television broadcasting licences are allocated in the same manner as community radio broadcasting licences.

The ACMA renewed six community television broadcasting licences during the reporting period, of which three were remote Indigenous broadcasting services.

All licence renewal applications were processed within 12 months of receipt by the ACMA. For the financial year, 100 per cent of licence renewals applications were initially assessed within four months of receipt.

The ACMA cancelled one community television broadcasting licence during the reporting period. This was the community television service in Perth operated by Channel 31 Educational Community Television Ltd (ACCESS 31). The licence was cancelled in September 2008 after ACCESS 31 members voted to wind-up the company and appoint a liquidator. This was in addition to Access 31 ceasing to broadcast on 6 August 2008.

There were 81 community television broadcasting licences at 30 June 2009, of which 78 were remote Indigenous broadcasting services.

Community television trial

During 2008–09, the ACMA made spectrum available for community television trials in:

- > Adelaide—for the period 5 July 2008 to 4 July 2010
- > Lismore—for the period 29 June 2008 to 28 June 2010
- > Perth—for the period 16 April 2009 to 15 April 2011.

These services are made possible by a condition on the apparatus licences that they be used only to provide an open narrowcasting television service for community and educational non-profit purposes.

Spectrum became available for the Perth community television trial as a result of cancellation of the community television broadcasting licence—see *Community television* above.

Telecommunications licensing

Carrier licensing

In 2008–09, the ACMA issued 22 carrier licences, all within the statutory 20-day time frame—an increase compared to 2007–08 when 17 licences were issued. However, due to the number of surrendered licences, the number of active carriers has remained relatively constant throughout the year at 175 active carrier licences. This is consistent with the trend over the past three years. A licensed carrier can surrender its licence by providing a written notice to the ACMA. A total of 94 carriers surrendered their carrier licence in 2008–09. As at 30 June 2009, there were 175 licensed carriers in Australia.

A carrier licence is required if a corporation owns network units that are used to supply carriage services to the public. Section 42 of the Act provides that the owner of a network unit must not use that network unit, or allow other persons to use that network unit, to supply carriage services to the public unless:

- > the owner holds a carrier licence
- > a nominated carrier declaration is in force in relation to the network unit
- > an exemption applies
- > the owner has a certificate entitling it to conduct a trial of its services or operations without holding a carrier licence.

The ACMA issued eight nominated carrier declarations in 2008–09. Eleven nominated carrier declarations were revoked following requests from the nominated carrier or the network owner in 2008–09. As at 30 June 2009, there were 72 nominated carrier declarations in force.

The complete list of carrier licences and nominated carrier declarations is at Appendix 5 for reference.

Trial Certificates allow applicants to trial new networks and services for a period of six months in order to establish their technical soundness and commercial prospects, without being required to hold a carrier licence for these networks. The trial of new networks and services allows businesses and residential consumers to benefit from innovative services facilitated by developments in technology.

One trial certificate was granted in 2008–09, to Qantas Airways Limited to enable them to carryout a trial of web-based email and instant messaging services for the use by Qantas airline passages on board its new Airbus A380 aircraft. The trial was for a period of six months and commenced on 15 September 2008. On concluding the trial licensed carrier OnAir Switzerland Sarl, the in-flight communication service provider, took out nominated carrier declarations to cover the Qantas aircraft equipped to provide the services.

Telecommunications numbering

Numbering Plan administration

The ACMA manages the Telecommunications Numbering Plan 1997 (the Numbering Plan), which sets out the framework for the numbering of carriage services in Australia and the use of numbers in connection with the supply of such services. The ACMA is also responsible for managing the existing numbering resource and planning for new numbering developments in Australia.

The Numbering Plan was not varied during the reporting period.

Numbering Advisory Committee

The Numbering Advisory Committee (NAC) is a formally constituted advisory committee to the ACMA and comprises representatives of the telecommunications industry, telecommunication users, community groups and government, and formulates, administers and provides advice on numbering policy. The NAC primarily addresses issues relating to the development and management of the Numbering Plan, including the allocation and specification of numbers, and the distribution and administration of annual numbering charges. It also provides a forum for discussion and briefing on matters related to numbering.

The NAC met twice during 2008–09, and provided advice on the annual numbering charges for 2009; a possible broader review of the Numbering Plan and related matters; conserving geographic numbers and a fact sheet on number portability. The NAC also considered proposals to amend the Numbering Plan to clarify the rules for using geographic numbers and introduce a new method of managing geographic numbers that would allow for single number allocations using local number portability processes.

Number allocations register

The ACMA maintains a register of numbers allocated to CSPs and numbers that have been permanently transferred from one CSP to another. The information is contained within a database known as the Online Numbering System (NUMB). The database is accessed by CSPs to perform functions such as routing and billing, and applying, transferring and surrendering numbers. It is accessed by the ACMA to administer the Annual Numbering Charge (ANC).

In May 2009, the ACMA completed a major upgrade to NUMB for applications for geographic numbers. Applications for these numbers are the most frequently received application, with large applications a significant impost on both applicants and the ACMA. The change has significantly improved the time it takes to submit and process applications for numbers, which has resulted in the ACMA considering a reduction in charges for these applications.

Numbering transactions

During 2008–09, the ACMA assessed 70 applications for numbers from 23 CSPs, including geographic, digital mobile, location-independent communication services and international signalling point codes. The average time to process routine applications was four working days, compared with 5.13 working days for 2007–08. The ACMA met its statutory requirements and key performance indicators by processing the numbering applications for 2008–09 well within the 10-day statutory timeframe.

The ACMA allocated 3.1 million geographic numbers during 2008–09, significantly fewer than the 4.5 million for 2007–08. A similar quantity of digital mobile numbers were allocated during 2008–09 (2.1 million) compared with 2007–08 (2.9 million). Table 7 shows the numbers allocated by number type in 2008–09.

During 2008–09, the ACMA received 13 applications to surrender numbers from nine CSPs. There were also five notifications of permanent transfer of numbers between CSPs. Table 8 shows the numbers surrendered, while Table 9 shows the numbers permanently transferred by number type.

Table 7: Quantity of numbers allocated by number type, 2008–09

Type of number	CSPs allocated numbers	Quantity of numbers allocated
Geographic	14	3,132,400
Digital mobile	4	2,420,000
Mobile number codes	1	1
International signalling point codes	3	8
Operator service	1	1
Total numbers allocated		5,552,410

Table 8: Quantity of numbers surrendered by number type, 2008–09

Type of number	CSPs surrendering numbers	Quantity of numbers surrendered
Geographic	3	4,300
Operator service	1	2
Location Independent Communication Service	2	39,000
Pre-selection override code	1	1
Paging service	1	1,000
Data	2	1
UPT	1	300,000
UPT access code		1
Total numbers surrendered		344,305

Table 9: Quantity of numbers transferred by number type, 2008–09

Type of number	CSPs transferring numbers	Quantity of numbers transferred
Geographic	2	222,300
Telex	1	3
Operator service	1	1
Total numbers transferred		222,304

Table 10: Quantity of numbers allocated by INMS by number type and digit length, 2008–09

Type of number	Quantity of numbers allocated
Freephone and local rate (1800, 1300, 13)	44,650
Premium rate numbers (six- and eight-digit 19 numbers)	352
Total numbers allocated	45,002

Table 11: Quantity of numbers surrendered by INMS by number type and digit length, 2008–09

Type of number	Quantity of numbers surrendered
Freephone and local rate (1800, 1300, 13)	18,535
Premium rate numbers (six- and eight-digit 19 numbers)	520
Total numbers surrendered	19,055

Industry Number Management Service (INMS) Ltd is contracted to provide services delegated by the ACMA for freephone (1800), local rate (13) and six and eight-digit premium rate numbers. Services undertaken by INMS include number allocations, withdrawals, reservations or placements in quarantine. Table 10 shows the quantity of numbers allocated by INMS and Table 11 shows the quantity surrendered in 2008–09 by number type.

Numbering for IP-based services

In 2007, the ACMA made available numbers commencing with 0550 for use by location-independent communications service (LICS). The range was introduced for use by IP-based services that depart significantly from traditional telephone services; in particular, where the service is not fixed in a particular location (nomadic).

No additional numbers were allocated for this range during 2008–09, however 39,000 LICS numbers were surrendered during the period. 7,000 numbers remain allocated for LICS between six IP-based CSPs. No larger or 'traditional' telephony CSPs currently hold an allocation of LICS numbers.

ENUM

ENUM (telephone number mapping) is a communications protocol to enable telephone numbers to be mapped to internet resources such as addresses for internet telephony, email, web pages and instant messaging. There are two variant implementations of ENUM, namely User ENUM where the end-user has control over which resources are being mapped, and Infrastructure (or Carrier) ENUM which is implemented by the service provider in order to facilitate the routing of calls or sessions.

The Australian ENUM Discussion Group (AEDG)—facilitated by the ACMA—has previously conducted a trial of User ENUM and reported on its outcomes in November 2007. A working group was also formed in February 2007 to investigate the technical and implementation issues of Infrastructure ENUM. This working group conducted a trial of Infrastructure ENUM from 1 September 2008 to 30 November 2008. Its report, which details the outcomes of the investigation into the technical and implementation issues of Infrastructure ENUM, is being considered by the AEDG and both this report and a report on the Infrastructure ENUM trial are available on the ACMA website.

The AEDG met in June 2009 to discuss both the findings of the Infrastructure ENUM working group and recent international developments in ENUM standards.

Regulation of VoIP services

ACMA research indicated rapidly increasing take up of voice over internet protocol (VoIP) by internet users with around one in four using VoIP, principally for international and long distance calls. Most usage was computer-based with relatively few using a separate telephony device for VoIP calls, although VoIP is increasingly accessible from mobile devices.

In the previous reporting year, the ACMA reviewed the regulatory requirements that applied to standard telephone services and carriage service providers (CSPs) to clarify the regulatory obligations of VoIP providers. In April 2008, the ACMA announced a new strategy for dealing with the regulation of VoIP services and, as part of that strategy, commenced a three-part program comprising:

- > educating VoIP CSPs to understand their obligations
- > researching levels of compliance and understanding reasons for non-compliance
- > enforcing regulation where appropriate, or reviewing it where necessary.

During 2008–09, the ACMA continued to implement the approach decided in the previous year. In April 2008, recognising that there are significant issues with changing communications technology such as VoIP, the ACMA released a discussion paper *Calling the Emergency Call Service—Review of Arrangements*. Taking into account matters raised in the public submissions, the ACMA released for consultation on 30 June 2009 a draft revised Emergency Call Service Determination to replace the Telecommunications (Emergency Call Service) Determination 2002.

The ACMA commenced a program examining the compliance by VoIP service providers with the Integrated Public Numbering Database requirements.

In December 2008, the ACMA released a Numbering Discussion Paper identifying three areas where the Numbering Plan may require clarification and requesting feedback on possible options to facilitate compliance. Twenty responses, which expressed a diverse range of views, were received to the paper. The ACMA is considering the issues raised and plans to release proposed amendments to the Numbering Plan for public comment later in 2009.

The ACMA published a fact sheet to better inform CSPs about some of their local number portability (LNP) obligations, and to clarify certain LNP issues generally and those specifically relating to the VoIP sector. VoIP provider websites are being monitored on portability and follow-up is undertaken where required.

Portability

Number portability is available for local, mobile and freephone and local rate numbers. Number portability improves opportunities for telecommunications competition by enabling customers to keep their telephone numbers when changing to a new CSP.

Provision is made in the Numbering Plan for circumstances where it may not be practicable or in the long-term interests of end-users for a CSP to provide portability.

No exemptions from number portability were sought or granted in 2008–09.

Pre-selection

Pre-selection is required to be provided on a standard telephone service. It allows a customer to choose a certain class or basket of calls, including national long distance and international calls, to be automatically routed to an alternative provider, regardless of which CSP is providing local call and access service for that standard telephone service.

The primary purpose of pre-selection is to offer customers choice and to support competition by enabling competing operators to use the networks of other carriers to access their customers.

At the end of the reporting period, one exemption from the pre-selection requirements remained in force for calls made on Telstra's *Pre-Paid Home* residential fixed service product (previously known as *Communic8 Home* and *homeZip*). The exemption was reviewed in late 2008. On the basis of the material supplied the exemption will continue, but will be reviewed again in the next reporting period.

Australia's operational pre-selection arrangements are governed by a registered telecommunications industry code, ACIF C515:2005 *Pre-selection Industry Code*. It specifies the minimum arrangements and timing for the delivery of pre-selection. It includes the principles and processes to be followed by access service deliverers and prime service deliverers for implementing, maintaining and changing customer's choice of prime service deliverer. The code was reviewed in 2008 by a Working Group of the Communications Alliance and reconfirmed as appropriate, with no amendment required.

Revenue and fees

The ACMA is responsible for the efficient regulation and allocation of public resources such as telecommunications numbering and the radiofrequency spectrum. These public resources are indispensable inputs to industry in the innovative and dynamic, communications sector of the economy.

The ACMA collects revenue on an annual basis through broadcasting, radiocommunications and telecommunications licence fees, and charges for telecommunications numbers. The administration of fees, taxes and charges can play a key role in the efficient planning, allocation and use of public resources.

Where feasible under the applicable legislation, the ACMA sets fees, taxes and charges so they support the effective use of public resources. They also recover the costs of regulating the industry. In accordance with government cost-recovery policy and guidelines, and where it is cost-effective, the ACMA seeks to charge individuals or firms for the costs of providing the activity.

Revenue raised by the ACMA in taxes, charges, levies and other revenue is shown in Tables 12 to 15.

USO funding

The ACMA provides advice to the minister to assist in the determination of the cost of satisfying the USO. The cost of funding this obligation is borne by the telecommunications industry through the application of a levy on licensed telecommunications carriers.

In August 2008, the ACMA provided the USO subsidies advice to the minister in response to his direction of 30 May 2008. On 24 November 2008, the minister set the USO subsidy for 2008–09 at \$145,076,237. This was the same amount that applied in 2007–08.

Table 12: Resource taxes

Description	Revenue in 2007–08 \$m	Revenue in 2008–09 \$m
Spectrum auctions	Auctions of spectrum licences 0.028	Auctions of spectrum licences
	Auctions of apparatus licences 0.114	Auctions of apparatus licences 0.110
Number auctions	4.469	3.078
Annual numbering charge	59.999	59.900
Apparatus licence tax	142.921	150.275
Broadcast licence fees	288.169	341.048
Total taxes	495.700	554.411

Table 13: Cost recovery charges

Description	Revenue in 2007–08 \$m	Revenue in 2008–09 \$m
Annual carrier licence charge	36.968	36.208
Spectrum licence tax	0.306	0.496
Fee for service charges	2.522	2.298
Do Not Call Register charges	2.208	2.093
Total charges	42.004	41.095

Table 14: Industry levies, 2008–09

Description	Revenue in 2007–08 \$m	Revenue in 2008–09 \$m
USO levy	158.100	145.545
NRS levy	12.100	15.107
Total levies	170.200	160.652

Table 15: Other administered revenue

Description	Revenue in 2007–08 \$m	Revenue in 2008–09 \$m
Fines	0.012	0.666
Other	0.174	0.317
Total other administered revenue	0.186	0.983

Telstra, as the USO provider, is eligible to submit a claim each year for the universal service subsidy. For 2007–08, Telstra submitted a claim for the USO subsidy of \$145,076,237. The claim amount was consistent with the minister's determination. The ACMA assessed and agreed to this claim. A total of \$57,148,948, including GST, was paid to Telstra by the end of January 2009 in fulfilment of its claim. This amount comprised contributions from the other participating persons for 2007–08, adjustments relating to the collection of payments from previous years and a GST component. Telstra contributed the remainder of the subsidy, based on its share of industry eligible revenue.

USO eligible revenue assessment

Persons holding a telecommunications carrier licence for any time during a financial year are required to submit an eligible revenue return so that the ACMA may determine each carrier's eligible revenue. For 2007–08, participating persons were required to lodge returns with the ACMA by September 2008. The ACMA reviewed the returns and made adjustments, where appropriate.

The primary function of the eligible revenue process is to determine the contribution that each participating person makes towards the USO subsidy. The eligible revenue process is also used to determine each participating person's contribution to the National Relay Service (NRS) subsidy and annual carrier licence charges (for more on the NRS, see page 97). The NRS is a national relay service that gives telephone access to Australians who are deaf, or who have a hearing or speech impairment. Annual carrier licence charges are imposed on carriers so that the ACMA may recover the cost of regulating the telecommunications industry, by both the ACMA and the Australian Competition and Consumer Commission.

Each participating person's contributions to the USO and NRS levies and carrier licence charges are based on their proportion of total industry eligible revenue. Carrier licence charges also include a fixed component.

In April 2009, the ACMA made a written assessment for each participating person's eligible revenue for 2007–08. The eligible revenue assessment for 2007–08 will be used to determine each participating person's USO levy for 2008–09.

Do Not Call Register access fees and cost recovery

Industry contributes to the cost of operating and maintaining the register through the payment of subscription fees and excess usage charges determined by the ACMA. In 2008–09, the annual subscription fees ranged from \$74 to check or 'wash' up to 20,000 numbers against the register, to \$84,000 to wash up to 100 million numbers. There is also a subscription type that allows telemarketers to check up to 500 numbers each year at no cost.

The ACMA estimates that it will receive \$2.67 million in total revenue³ from the telemarketing industry in the second year of the register's operation. This is \$0.30 million less than the direct costs of its operation. The reasons for this under-recovery include costs associated with improvements to the Telemarketer Access Portal (the industry website) and lower than expected demand for larger subscription types.

In preparation for determining the new fees to access the register in 2009–10, the ACMA completed a review of the actual and expected direct cost of operating the register. The estimated direct cost of operation over the next two financial years (2009–10 to 2010–11) is \$5.54 million. Over the same period, the cost-recovery arrangements for the register are expected to collect \$5.54 million in revenue. This figure is net of the cumulative over-recovery⁴ from the first and second years of the register's operation.

3 Estimated total revenue is on an accrual basis (except excess usage charges) and includes annual subscription fees and excess usage charges incurred by telemarketers. It is net of any refunds given and revenue that has been written off by the ACMA during that period.

4 The net cumulative over-recovery of \$0.54 million is comprised of an over-recovery of \$0.84 million and an under-recovery of \$0.30 million in the first and second years of the register's operation, respectively.

On 24 March 2009, the ACMA released a discussion paper—*New Fees and Payment Methods for Accessing the Do Not Call Register in 2009–10*. The ACMA engaged the independent consultancy organization, Access Economics, to assist in determining the new fees. Interested parties were invited to comment on the proposed access fees, the removal of excess usage charges and the introduction of prepayment arrangements, which were all scheduled to commence from 1 July 2009. Four submissions were received in response to the discussion paper.

On 25 June 2009, the ACMA approved the 2009–10 fees payable by industry, and removed the excess usage charge arrangements by amending the Do Not Call Register (Access Fees) Determination 2007. The amendments are effective as of 1 July 2009. The proposal to introduce prepayment arrangements for accessing the register did not proceed, but will be reconsidered at a later date.

The cost recovery arrangements for the register are based on a 'fee-for-service' and do not include the costs to establish the register, or the ACMA's regulatory costs associated with monitoring and enforcing compliance with the *Do Not Call Register Act 2006*.

NRS levy

The cost of delivering the National Relay Service (NRS) is funded by a quarterly levy on eligible telecommunications carriers. Carriers holding a carrier licence, and covered by the most recent eligible revenue assessment made by the ACMA before the start of each quarter, are eligible to pay the levy. A ministerial determination registered on December 2005 now restricts payment of the levy to carriers that have eligible revenue of \$10 million dollars or more in the most recent eligible revenue assessment made before the start of each quarter. The ACMA is responsible for the collection of the NRS levy on behalf of the Australian Government.

In 2008–09, the cost of providing the NRS was \$16.6 million (inclusive of GST and subject to final reconciliation of the 2008 June quarter), an increase of more than three per cent on the costs in 2007–08. The increase reflects the applicable cost price index provision in calculating the annual cost of the relay service component, although outbound call minutes (upon which is the basis of funding the NRS Relay Service) declined slightly, from 3.34 million to just under 3.25 million minutes.

Numbering charges

On behalf of the Australian Government, the ACMA collects a set amount of revenue each year from carriage service providers (CSPs) that hold telephone numbers. The ACMA collects this revenue through the annual numbering charge (ANC).

The ANC revenue target is set by the government through the federal Budget. In each year since 1998, the revenue target has been \$60 million. The ANC revenue target for 2009 was \$60 million.

Under the annual numbering charges process, CSPs are liable for the charges they incur for the numbers they hold on the census date (determined by the ACMA) in April each year. The census date for 2009 is 5 April.

To enable the ACMA to determine the quantity of numbers held by each CSP on the census date, an embargo on the surrender of most numbers, allocated by the ACMA, commences fifteen working days prior to the census date each year—in 2009, the embargo commenced on 16 March 2009. Therefore all surrenders must be received by 13 March 2009.

The ACMA administers the process in accordance with the *Telecommunications Act 1997*, the *Telecommunications (Numbering Charges) Act 1997* and a series of four determinations made by the ACMA under those Acts. The determinations establish key parameters of the process (such as the census date referred to above and the formula used to ascertain the amounts of charge to be applied to particular numbers) and may be remade from time to time as required.

The determinations under which the numbering charge process is administered are:

- > the Imposition of Annual Charge – Date Determination, which sets the date on which charges are imposed (i.e. the census date)
- > the Telecommunications (Due Date for Annual Charge) Determination 1999, which sets the due date for payment of charges
- > the Telecommunications (Annual Numbering Charge – Late Payment Penalty) Determination 2000, which sets out rules for the imposition and remission of late payment penalties
- > the Telecommunications (Annual Charge) Determination 2007 (No. 2), which sets the formula used to ascertain the amounts of annual charge (this determination does not set out the actual amounts to be charged).

Amount of charge

The base number charge for 2009 was \$0.8097682824. Employing the opportunity cost methodology applied in previous years, nine digit numbers were charged at \$8.097682824, eight-digit numbers at \$80.97682824 and so on. Three, four and five digit numbers were charged at \$100,000, the maximum rate allowable under the *Telecommunications (Numbering Charges) Act 1997*.

Numbers used for incoming-only international services, internal network services and testing services were subject to a reduced rate of charge and geographic numbers allocated to a carriage service provider for the purposes of providing a standard telephone service to a customer are exempt from the charge.

As at 30 June 2009, the ACMA had recovered \$59,242,694.14 of the \$60 million revenue target.

The amounts outstanding for each CSP are shown in Table 16.

Number auctions

In 2004 the **smartnumbers**® auction system was introduced to allocate freephone and local rate numbers (FLRNs): 13, 1300 and 1800 numbers. The auction system was introduced as an efficient means of allocating these numbers and enables an appropriate return for this valuable and limited resource.

Smartnumbers® have become a valuable marketing tool with companies using the numbers to spell the company name or their product. The concept of phonewords seems to have been embraced by the larger business community with increased volume of phonewords being advertised. Apart from the spelling of words associated with the company or their products there has also been an uptake of memorable patterned numbers, for example, 1300 111 222.

Businesses using **smartnumbers**® have found that the use of these numbers has increased call volumes significantly compared with the use of a standard FLRN. This may be due to the **smartnumbers**® being significantly easier to memorise than your standard FLRN and therefore the ability to number recall is increased.

Winning bidders for a **smartnumbers**® are entitled to the enhanced rights of use (ROU) to the number, these rights include the ability to trade or lease the rights to the **smartnumbers**®. The winning bidder may retain the ROU to a **smartnumbers**® for up to three years without an active service in place.

Table 16: Annual numbering charge amounts outstanding at 30 June 2009

CSP	Amount outstanding (\$)
ABG Group Pty Ltd	17,513.11
ACN Pacific Pty Ltd	35,331.00
B33hive Pty Ltd	9,393.31
CallText Pty Ltd	161.96
Commander Networks Pty Ltd (ADMINISTRATORS APPOINTED)	8,254.78
Ericsson Australia Pty Ltd	248.04
mBlox Pty Ltd	103,083.50
Mirror Image Access (Australia) Pty Ltd	566.84
Netsize Pty Ltd	49,180.64
Oxygen8 Communications Australia Pty Ltd	789.51
RSL COM Australia Pty Ltd (RECEIVERS & MANAGERS APPOINTED)	392,618.67
Visiontek Pty Ltd	32,066.82
Vocus Pty Ltd	100,000
Voicetek Pty Ltd	8097.68
Total	757,305.86

Note: Table 16 does not include late payment penalties which apply after 15 June 2009, the due date for payment.

The **smartnumbers**® allocation system consists of two separate processes. The first is the public auction system which allows anyone who is a valid **smartnumbers**® user to participate. The second is for income tax exempt charities and public users are not permitted to participate in these auctions. Arrangements for these processes are set out in the Telecommunications (Freephone and Local Rate Numbers) Allocation Determination 2007 (No.1) and the Telecommunications (Freephone and Local Rate Numbers – Charities) Allocation Determination 2007 (No.1).

Reserve prices for the numbers in the public auction process are set according to the different characteristics of the number. The reserve prices range from the current minimum of \$500 to the current maximum of \$40,000. For example: **smartnumbers**® with numerical patterns or those that translate to memorable phone words may have a higher reserve price than less patterned or memorable FLRNs.

In 2008–09, the ACMA raised \$3,171,026 in revenue from the sale of 4,747 numbers through the **smartnumbers**® auction process.

Charities may obtain any available number at the charity reserve price of \$100, providing they are able to demonstrate the charities strategic link to the number as outlined in the Determination; for example, a number that translates to a phone word that is the charity's name or part of their name.

In 2008–09, 49 charities were awarded **smartnumbers**®, raising \$4,900 in revenue.

The ACMA met its key performance indicators with **smartnumbers**® auctions by regularly and efficiently conducting auctions to enable a reasonable financial return to the government.

Carrier licensing and nominated carrier declaration charges

An annual charge is imposed on carriers holding licences at the beginning of each financial year. This charge is payable by the holder of the carrier licence. The annual charge consists of a fixed component of less than \$1,000 and a variable component that will be determined for each financial year on the basis of market share in accordance with the formula set out in section 67 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*. This formula is also used in determining the amount of levy debit applicable to a participating carrier under the universal service regime. The annual charge is intended to provide a mechanism for recovery of costs associated with the regulation of the telecommunications industry.

In 2008–09 the total annual carrier licence charge was \$36,034,052.34.

The charge imposed on an application for a carrier licence (\$2,500) and nominated carrier declaration (\$2,900) is due and payable when the application is made to the ACMA. The amount of the application charge represents the recovery cost of processing the application.

Apparatus licence taxes

As indicated in Table 12: Resource taxes, 2008–09, the ACMA uses taxes on the issue of radiocommunications apparatus licences to support the efficient use of spectrum and recover the indirect costs of spectrum management. The tax is calculated by a formula that makes fees determinate, consistent, equitable and transparent. The formula encourages efficiency by making taxes higher in congested locations and spectrum bands, making taxes proportional to the bandwidth and giving discounts for low power.

In 2009 the CPI adjustment of 4.5 per cent, reflecting price changes from June 2007 to June 2008, applied to all licence taxes except for fixed services operating below 960 MHz in remote density areas.

The fifth and final stage of tax increases for fixed services in bands below 960 MHz applied from April 2009. At the end of the program, taxes for point to multipoint licences will be equal to land mobile taxes, and point to point licence taxes will be one-quarter of the fee for land mobile licences.

In 2008–09, total revenue from radiocommunications apparatus licence taxes rose by 5.1 per cent. The increase was caused by CPI adjustments and higher taxes for fixed services in bands below 960 MHz.

The ACMA conducted no spectrum licence auctions in 2008–09.

Opportunity cost pricing for administratively allocated spectrum

The ACMA sought comment on proposals to set prices for administratively allocated spectrum in the 400 MHz spectrum band based on opportunity cost pricing methods. The review examined the use of administrative incentive pricing using opportunity cost as a preferred method for administratively allocated spectrum for the 400 MHz spectrum band. It also sought views on the priority uses of opportunity cost pricing in the other spectrum bands identified for progressive review and allocation, as outlined in the ACMA’s *Five-year Spectrum Outlook 2009–13*. Consultation closed on in June 2009 and the ACMA is considering issues raised in submissions.

Spectrum licence tax

The spectrum licence tax is imposed on all holders of spectrum licences at 11 October each year. The total amount of tax on each band is disclosed before the allocation and does not change over the life of the licence. The total amount of tax is split between licensees in each band based on the bandwidth and the population covered by their licences. In 2008–09 the ACMA collected a total of \$496,060 in spectrum licence tax.

Broadcast licence fees

The ACMA collects broadcast licence fees from commercial radio and television broadcast licence holders under the *Television Licence Fees Act 1964* and the *Radio Licence Fees Act 1964*. Supporting documentation is required under section 205B of the Broadcasting Services Act. Fees are calculated as a percentage of the gross earnings of the licence holders for each financial year.

Collection of broadcast licence fees

The ACMA collected a total of \$310.9 million in broadcast licence fees in 2008–09. This amount was based on the gross earnings of television and radio broadcasters for 2007–08. Television broadcasters paid a total of \$286.8 million in broadcast licence fees and radio broadcasters paid a total of \$24.1 million in broadcast licence fees.

The growth in total broadcast licence fees was just over 10 per cent compared with broadcast licence fees collected in 2007–08. This was mainly attributed to an increase in television licence fees of about 11 per cent arising from fully utilised digital television conversion rebates of \$14.1 million in the previous financial year.

Table 17 shows total broadcasting licence fees for the last four financial years.

Regional Equalisation Plan

The Australian Government introduced a Regional Equalisation Plan in 2000–01 to assist the rollout of digital television broadcasting services to regional and remote Australia. Over 13 years, up to \$250 million (representing 50 per cent of both estimated capital and eight years operating costs of digital services) will be provided to commercial television broadcasters in the form of rebates against annual licence fees administered by the ACMA and, where necessary, supplementary grants administered by DBCDE. Commercial television broadcasters claimed total rebates of \$9.3 million in 2008–09.

Table 17: Broadcast licence fees, 2005–06 to 2008–09

	Number of licences				Total licence fees collected (\$m)			
	2005–06	2006–07	2007–08	2008–09	2005–06	2006–07	2007–08	2008–09
Radio licence fees paid	274	274	274	273	20.3	21.3	22.4	24.1
TV licence fees obligation	53	54	55	55	274.5	278	282	296.1
Less digital TV conversion rebate					23.3	23.4	23.4	9.3
TV licence fees paid					251.2	254.6	258.6	286.8

Compliance and enforcement

The ACMA has streamlined, as far as is consistent with the Broadcasting Services Act, the process of submitting the required documentation and payment of broadcasting licence fees. This has included a move to electronic submission of forms and payment as well as improved support and education for broadcasters. As a result, there is generally a very high level of compliance. Despite this, a small number of licensees have repeatedly failed to comply with the legislation.

Compliance with the fees provisions of the Broadcasting Services Act is a condition of all commercial broadcasting licences. Failure to comply with the requirements of section 205B of the Broadcasting Services Act is an offence of strict liability and is a designated infringement notice provision. The ACMA issues infringement notices to broadcasters alleging non-compliance. During 2008–09, 32 infringement notices comprising a total penalty of \$35,200 were issued to commercial broadcasters. These infringement notices were paid by the due date.

Technical regulation

The ACMA encourages industry self-regulation and works with industry to develop standards, taking into consideration appropriate public interest criteria and technical regulatory requirements of the *Telecommunications Act 1997* and the *Radiocommunications Act 1992*. The ACMA administers mandatory regulatory arrangements that require specified items of equipment to meet these industry-developed standards.

Technical Advisory Group

The Technical Advisory Group (TAG) is an industry consultative forum established and chaired by the ACMA. TAG members include supplier and consumer industry sector representatives, representatives of Standards Australia and the National Association of Testing Authorities and ACMA staff from across the range of technical regulation.

The TAG plays a valuable role in promoting the consistency of the technical regulatory framework and considering strategically whether it remains appropriate to changing needs and is achieved with the least burden on industry. Through a consultative process, the TAG contributes strategic thinking to drive improvements to technical regulatory arrangements.

During 2008–09, TAG members advised on:

- > compliance and labelling policies
- > the implications of convergence for sectoral-specific technical regulation arrangements
- > international activities relating to technical regulation
- > broader compliance approaches to technical regulation.

The TAG took a particular interest in the current labelling arrangements for communications and IT equipment and devices. The issues identified in TAG labelling discussions included:

- > consolidating existing regulatory compliance labels
- > recognition of overseas compliance marks within the Australian technical regulatory framework
- > the relationship between labelling requirements and broader technical compliance policy objectives.

TAG members also identified the review of electrical equipment safety arrangements being undertaken under the auspices of the Electrical Regulatory Advisory Committee (ERAC) as relevant to future labelling requirements. TAG members noted that the ERAC review presented an appropriate opportunity to consider consolidating the existing compliance marks into a single compliance mark that covers telecommunications, radiocommunications, EMC and electrical safety.

The TAG discussions on future labelling arrangements were complimented by discussions held under the auspices of the Technical Working Group (TWG). The TWG is a standing working group that reports back to the TAG and consists of industry stakeholders including carriers, standards development organisations, testing laboratories, supplier representatives and independent consultants.

The TWG examined in greater detail issues relating to electronic labelling of devices subject to ACMA's labelling requirements. As a result of TWG discussions on electronic labelling, amendments are being prepared for formal consideration by the Authority in 4Q 2009.

The TWG also examined and provided comment on proposed changes to the EMC regulatory arrangements, APEC-TEL *Technical Equivalence MRA* and other issues that have the potential to impact on the ACMA technical regulatory arrangements.

Technical standards

The ACMA works closely with industry in fostering self-regulation and supports it in the development of technical standards that the ACMA may mandate, taking into consideration its obligations under the *Telecommunications Act 1997*, the *Radiocommunications Act 1992* and the *Broadcasting Services Act 1992*.

Mandatory technical standards are given regulatory effect through a series of compliance and labelling obligations placed on all suppliers of electrical and electronic equipment including telecommunications and radiocommunications devices.

Under these arrangements, the ACMA requires suppliers—Australian manufacturers, importers or their agents—to:

- > ensure equipment subject to mandatory regulatory arrangements complies with technical standards
- > apply compliance labels to those items where appropriate
- > keep appropriate records.

The ACMA administers four regulatory arrangements, as follows:

1. Telecommunications regulatory arrangements, which scope specified telecommunications equipment and cabling.
2. Radiocommunications regulatory arrangements, which scope specified radiocommunications transmitters.
3. Electromagnetic compatibility (EMC) regulatory arrangements, which specify electromagnetic emission requirements for electrical and electronic equipment to limit unintended radiation.
4. Electromagnetic energy (EME) regulatory arrangements, which sets health exposure limits on emissions from radiocommunications transmitters.

These arrangements provide mandatory safeguards to protect the community without unnecessarily compromising the benefits that these technologies bring to modern living.

The ACMA participates in Communications Alliance reference panels and Standards Australia technical committees to ensure that industry codes, technical standards and guidelines meet the minimum necessary regulatory requirements for technical regulation.

The ACMA only mandates parts of standards that are suitable for adoption under the ACMA heads of power for the relevant arrangement. Examples are health and safety, radiofrequency interference, network integrity and emergency call access. These are identified within the Acts under which the standards are made.

During the reporting period, the ACMA participated in various meetings with industry representative bodies, providing input to the creation and updating of industry performance standards and industry codes. The ACMA also attended exhibitions and tradeshow to promote awareness of the regulatory arrangements.

Telecommunications standards

The ACMA engages with the telecommunications industry through its involvement with Communications Alliance to manage a suite of mandatory telecommunications standards. Communications Alliance is the peak standards development organisation for telecommunications standards and undertakes this work using an open and consultative process that includes comprehensive public consultation.

During 2008–09, the ACMA received two submissions from Communications Alliance for changes to the application of technical standards in the regulatory arrangements. The ACMA amended the Telecommunications Labelling (Customer Equipment and Customer Cabling) Notice 2001 once in the reporting year to incorporate changes identified in the first submission. This amendment took effect in December 2008. Changes identified in the second submission will be incorporated in a further amendment next financial year.

The December 2008 amendment allowed for the deployment of VDSL2 services, incorporated revisions to existing safety, voice performance and circuit switched customer equipment standards and introduced a generic category for satellite services under the telecommunications regulatory arrangements.

During 2008–09, the ACMA participated in the Communications Alliance working committees and reference panels to review the requirements of the following standards and guidelines:

- > AS/ACIF S041:2009 *Requirements for DSL Customer Equipment for connection to the Public Switched Telephone Network*—to cater for ADSL2+ modems and filters.
- > AS/ACIF S042.1:2008 *Requirements for Connection to an Air Interface of a Telecommunications Network – Part 1: General*—to review the requirements for mobile phones consistent with those of satellite phones and the Emergency Call Service Determination requirements.
- > AS/ACIF S042.4:2009 *Requirements for Connection to an Air Interface of a Telecommunications Network – Part 4: IMT-2000 Customer Equipment*—to allow for customer equipment designed for use in connection with an IMT-2000 (3G) public mobile telecommunications service (PMTS).
- > AS/ACIF S003:2009 *Requirements for Customer Access Equipment for connection to a Telecommunications Network*—for analog/TDM based and packet/cell based technologies.
- > *Broadcaster Interface Guideline*—to replace an out of date standard for digital broadcaster interfaces.

The ACMA expects several of these standards to be incorporated into the regulatory arrangements during 2009–10.

Radiocommunications standards

As part of its radiocommunications regulatory role, the ACMA manages the radiocommunications compliance and labelling regulatory arrangements for the supply of radiocommunications devices.

In managing this, the ACMA engages with the radiocommunications industry through its involvement with Standards Australia working committees RC4 and RC6. Standards Australia is the peak standards development organisation for radiocommunications standards and undertakes this work through an open, consultative process.

Radiocommunications standards specify minimum performance parameters for equipment to limit interference to radiocommunications services. They also address relevant health and safety issues associated with the operation of that equipment and its abilities to function in the Australian environment. The ACMA's radiocommunications laboratory provides a testing facility—accredited by the National Association of Testing Authorities (NATA)—capable of testing equipment for compliance with these standards.

The ACMA mandates appropriate aspects of industry radiocommunications standards by way of standards made under section 162 of the *Radiocommunications Act 1992* (the Radiocommunications Act). The ACMA's radiocommunications standards may adopt the industry standard in whole or in part and include specified variations for Australian conditions as required. The ACMA undertakes this work in an open, consultative process that includes comprehensive stakeholder consultation.

The requirement to label devices scoped by these standards is given effect through the Radiocommunications Devices (Compliance Labelling) Notice 2003 (Labelling Notice). The Labelling Notice requires Suppliers of specified radiocommunications devices to test to applicable standards, hold proof of compliance to these standards and to label the devices with the C-Tick compliance mark.

During 2007–08, the ACMA made the Radiocommunications (Cordless Telephone) Standard 2008 under section 162 of the Radiocommunications Act. As a consequence, the ACMA amended the Labelling Notice in 2008–09 to apply labelling requirements to devices falling under the new standard. The Labelling Notice was also amended to align measurement uncertainties provisions with European practice for specified standards.

The Radiocommunications (Short Range Devices) Standard 2004 automatically adopts the latest published version of the applicable industry standard for these devices. During 2008–09, AS/NZS 4268:2008 was published and consequently became mandatory in accordance with the ACMA standard. Similarly, an amendment to the industry standard for UHF CB radios was automatically adopted by the ACMA standard, Radiocommunications (UHF CB Radio Equipment) Standard 2004.

During 2008–09 Standards Australia Committees (RC4 and RC6) revised or were in the process of revising the following industry standards. Where the date of publication is shown as 200X, the standard is new and is not yet published.

- > AS/NZS 4365:2002 *Radiocommunications equipment used in the UHF citizen band radio service*—the amendment clarifies a test procedure and introduces a number of requirements including transmitter time out timers, default start up channel and the automatic transmission of station identification and location information.
- > AS/NZS 4268:2008 *Radio equipment and systems – Short range devices – Limits and methods of measurement*—the amendment improves alignment with international practices and with new technology and applications.
- > AS/NZS 4768.1:2006 *Digital radio equipment operating in land mobile and fixed services bands in the frequency range 29.7 to 1GHz*—to consider alternative requirements for fixed remote site devices.
- > AS/NZS 4583:1999 *Amplitude modulated equipment for use in the aeronautical radio service in the frequency range 118 MHz to 137 MHz*—to consider an alternative compliance path largely aligned with European requirements and also to consider various corrections and clarifications.
- > AS/NZS 4869.2:200X *Stand alone Maritime Survivor Locating Systems (MSLS) Part 2: Operating on frequencies other than 121.5 MHz*—to consider requirements for these devices.
- > AS/NZS 61097.12:2008 *Global maritime distress and safety system (GMDSS) - Survival craft portable two-way VHF radiotelephone apparatus - Operational and performance requirements, methods of testing and required test results (IEC 61097-12, Ed. 1.0 (1996) MOD)* —a revision of AS/NZS 4416:1996.
- > AS/NZS 62320:200X *Maritime navigation and radiocommunication equipment and systems - Automatic identification systems (AIS) - Part 1: AIS base stations - Minimum operational and performance requirements, methods of testing and required test results*—to consider requirements for these devices.

- > AS/NZS 4280.1 & .2:2003 *406 MHz satellite distress beacons - Marine emergency position-indicating radio beacons (EPIRBs) (IEC 61097-2:2002, MOD) and 406 MHz satellite distress beacons - Personal locator beacons (PLBs)*— to consider up to date maritime safety authority device registration requirements, labelling and editorial corrections.
- > AS/NZS 4415.1:2003 *Radiotelephone transmitters and receivers for the maritime mobile service operating in the VHF bands — Technical characteristics and methods of measurement*—to consider interference prevention measures from class B Automatic Identification Systems.

Under the current regulatory arrangements, the ACMA automatically adopts amendments to existing AS/NZS standards such as those referred to above.

Electromagnetic compatibility standards

The ACMA has responsibility under the Radiocommunications Act for the regulation of electromagnetic compatibility (EMC).

The EMC regulatory arrangement objectives are:

- > to minimise electromagnetic emissions from electrical and electronic devices that could disrupt radiocommunications services, while maximising opportunities for Australian industry in international markets
- > to facilitate importation of products that will benefit the Australian community.

The EMC regulatory arrangements comprise two major elements:

1. Technical standards for electromagnetic emissions (EMC technical standards) made under section 162 of the Radiocommunications Act.
2. Compliance (including record-keeping and labelling) requirements made under section 182 of the Radiocommunications Act.

Under an arrangement concluded in October 2007, Standards Australia Technical Committee TE-003 (which is responsible for developing EMC technical standards in Australia, including input to the development of international EMC technical standards) recommends to the ACMA the technical standards to be referenced in the EMC regulatory arrangements. Consistent with Australia's World Trade Organization obligations, the EMC regulatory arrangements utilise international standards for EMC to the maximum extent practicable.

In November 2008, ACMA initiated a broad review of the scope and threshold of the application of the EMC regulatory arrangements. The intention of the review was to ensure the policy objectives of EMC regulation—to minimise the likelihood of interference between devices and to manage the noise floor—continue to be met, while not imposing unnecessary financial and administrative burdens on industry.

ACMA's industry consultative forums identified and discussed possible amendments to the Radiocommunications Labelling (Electromagnetic Compatibility) Notice 2008 (EMC Labelling Notice). In March 2009, a public consultation document was released outlining the proposed policy direction for changes to the EMC Labelling Notice.

The changes proposed to the EMC Labelling Notice fall into the following categories:

- > scope (identifying which devices are subject to the EMC Labelling Notice)
- > threshold (defining the compliance levels within the EMC Labelling Notice)
- > labelling requirements
- > record keeping requirements.

The changes are also intended to further align the EMC regulatory requirements with the New Zealand EMC regulatory requirements, consistent with obligations under the Trans-Tasman Mutual Recognition Agreement (TTMRA).

A second round of consultation will be undertaken in third quarter of 2009. The ACMA intends the new arrangements will be in place by October 2009.

Standards and codes for digital television

Under the *Broadcasting Services Act 1992* the ACMA may, among other things, determine performance characteristics for broadcast transmitters and broadcast reception equipment operating in the digital mode. When considered in conjunction with principles of good regulatory practice, the codes and standards provisions allow for a graduated regulatory response that can be tailored to circumstances where there is an identified market failure or to address significant risk of market failure.

The ACMA recognised that with the introduction of new digital television technologies there were areas where industry lacked a clear understanding of the performance levels that would trigger ACMA consideration of its regulatory options.

Electronic Program Guides

The ACMA recognised that the provision of Electronic Program Guides (EPG) was a digital television feature that enhanced the viewer experience of free to air (FTA) television and was potentially a significant driver of digital take up. In light of this, following consultation with industry, the ACMA promulgated a set of principles it believes describe the essential performance characteristics for an effective EPG. The EPG principles indicate performance characteristics including availability and technical performance parameters.

In promulgating these principles, the ACMA has indicated a clear minimum performance benchmark for broadcasters setting out performance levels that, if breached, would trigger consideration of use of the ACMA's formal powers to make codes or industry standards. The ACMA has incorporated into the principles industry operational practices documents in keeping with the principles of using self-regulation to the greatest extent possible whilst having regard to the needs of the community in the provision of the EPG.

Referencing industry operational practices documents also allows the EPG Principles to remain contemporary and respond to developments in the technology used to provide EPG for digital television. The ACMA will monitor broadcaster performance against the EPG Principles and, importantly, will monitor the content of the operational practices documents that are relevant to EPG.

Digital television receiver standard

In 2008–09, the ACMA worked with industry stakeholders and Standards Australia in the continuing development of technical aspects of the receiver standard AS 4933.1.

The standard may be used to specify requirements for one or more features of digital television receivers. Continued development of the standard ensures it remains contemporary and responsive to industry and community issues regarding receiver performance.

The ACMA contributes to the standards development process both to increase the suitability of any standard for inclusion in any potential regulatory arrangements and to ensure that the receiver technical performance specifications align with the broadcast planning assumptions used by the ACMA. Through this work the technical standard can specify effective benchmark performance criteria for the consumer equipment sector and is suitable as a key element in voluntary government labeling schemes implemented as part of the digital television switchover process.

Cabling regulation

The ACMA's approach to the regulation of customer cabling includes:

- > overseeing the industry-managed cabling registration scheme
- > monitoring and enforcing compliance with cabling regulatory requirements
- > supporting greater cabling industry self-regulation
- > promoting consumer and industry awareness of regulatory arrangements of customer cabling.

Cabling registration scheme

Cabling Provider Rules (CPRs) are based on an industry-managed national registration system. Five industry bodies are currently accredited by the ACMA to be registrars under CPRs and these registrars issue registrations to cablers.

At 30 June 2009, there were 61,904 cablers registered under CPRs. The ACMA continues to monitor the performance of registrars in meeting their contractual obligation to provide registration services to the cabling industry.

The ACMA works with registrars to improve reporting arrangements and monitor service delivery levels across the industry through quarterly meetings of the Registrars' Coordinating Committee. The ACMA also meets quarterly with the Cabling Advisory Group on technical issues and related cabling policy, which includes a wide range of representatives from the cabling industry.

The ACMA is in the process of streamlining administrative processes associated with the cabling registration scheme. The public consultation period has been completed. It is anticipated that amendments to the CPRs and associated instruments will be implemented in the second half of 2009.

Consumer and industry awareness of cabling regulation

The ACMA has continued to promote awareness of cabling regulations and their application to consumers by distributing an information brochure through commercial and retail outlets, cabling contractors and registrars. A print and web-based awareness campaign directed at building designers and the construction industry continued from 2007–08, with messages encouraging appropriate design for cabling facilities in buildings and the use of currently registered cablers during construction. Print-based advertising was also included in a variety of trade publications. In addition, the ACMA distributes bumper stickers to registered cabling providers promoting the 'Play it safe—only use a registered cabler' campaign message.

The ACMA participated in industry seminars and conferences to promote the CPRs and provide information about industry developments. The ACMA also contributed articles and regular features about technical or regulatory issues to trade and industry publications and newsletters distributed by registrars to registered cablers.

In 2008–09, the ACMA responded to 1,698 enquiries and requests for assistance in relation to the cabler regulation arrangements.

Telecommunications infrastructure regulation

Carriers' rights and obligations

Schedule 3 to the *Telecommunications Act 1997* (the Telecommunications Act) provides carriers with the powers to inspect land to determine whether the land is suitable for the carrier's purposes; install certain facilities on the land; and to maintain a facility that is situated on the land.

The Telecommunications (Low-impact Facilities) Determination 1997 specifies the types of facilities, known as 'low-impact' facilities, which carriers are entitled to install without seeking state, territory or local government planning approval. Low-impact facilities include small radiocommunications antennae and dishes that are erected on existing towers or buildings, underground and above ground housings, underground cables, public payphones and temporary emergency facilities. Low-impact facilities are subject to certain restrictions on size, colour and location.

The installation of telecommunications facilities that fall outside the scope of the Low-impact Facilities Determination are likely to require approval by relevant state, territory or local planning authorities.

In exercising their powers to inspect land, install certain facilities and maintain infrastructure, carriers must comply with conditions specified in the Telecommunications Code of Practice 1997 (Code of Practice).

Under the Code of Practice, carriers must notify the owner and occupier of the land about their activities, ensure as little detriment and damage is caused by the activity and restore land to a condition similar to the condition it was before the activity commenced.

The ACMA may investigate suspected breaches of the Telecommunications Act, the Code of Practice and industry codes registered by the ACMA.

Enquiries and complaints about carriers' rights and obligations

In 2008–09, the ACMA received three complaints on matters covered by Schedule 3 to the Telecommunications Act, and advice was provided to the complainants. The ACMA also received 43 enquiries from local councils, solicitors, landowners and the public relating to Schedule 3 to the Telecommunications Act and the Code of Practice.

Deployment of mobile phone network infrastructure

The planning and installation of mobile phone network infrastructure is subject to the requirements imposed by the Industry Code ACIF C564:2004 *Deployment of Mobile Phone Network Infrastructure* (the industry code). It is registered by the ACMA under Part 6 of the Telecommunications Act.

The industry code requires carriers to consult with local councils and the community about the placement of certain mobile phone facilities, typically 'low-impact' facilities.

Through a complaints process, the ACMA monitors carrier compliance with the industry code and has the power to issue formal warnings and directions to carriers to comply with the code. With complaints concerning possible contraventions of the industry code, the ACMA may, in accordance with Part 26 of the Telecommunications Act, make preliminary inquiries of the respondent to decide whether it has the power to investigate the matter or whether in its discretion it should investigate the matter.

In 2008–09, the ACMA received eight complaints and 15 enquiries related to the industry code. Of the complaints received, including one complaint that progressed to a preliminary inquiry, the ACMA considered that the matters raised were not sufficient to substantiate a claim of carrier contravention of the industry code. Carriers conducted an estimated 1159 consultations under the code during this period.

The ACMA promotes a common understanding and interpretation of the requirements of the code through feedback to individual carriers and operational practices meetings. These meetings are attended by representatives from Telstra, Optus and Vodafone and from the Mobile Carriers Forum (MCF). MCF is an industry group representing the mobile phone carriers in Australia.

Electromagnetic energy regulatory arrangements

The ACMA's electromagnetic energy (EME) health exposure regulatory arrangement requires a wide range of radio transmitter installations and portable equipment, such as mobile phone handsets, to comply with EME limits set out in a standard published by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA). The ARPANSA Standard is based on the internationally recognised International Commission for Non-Ionizing Radiation Protection (ICNIRP) Guidelines that have been adopted by many other countries. The EME arrangement addresses possible adverse health effects without unnecessarily compromising the benefits that radiocommunications technologies bring to modern living.

To ensure that there is compliance with the EME exposure limits, licensees need to have their transmitter installations assessed, and manufacturers and importers of mobile phones and similar equipment must have their products tested for compliance before supply is permitted to the Australian market. Significant penalties apply for breaches of the EME arrangement.

Staff from the ACMA participated in Standards Australia Committee TE/7, which is responsible for health exposure measurements standards and provides input to the development of international standards.

Submarine cable protection

Submarine cables carry the bulk of Australia's international voice and data traffic and contribute significantly to the Australian economy.

Schedule 3A of the Telecommunications Act permits the ACMA to declare protection zones over nationally significant cables and to prohibit or restrict activities that pose a risk of damaging cables in these zones. The legislation establishes offences for damaging a cable or for breaching prohibitions and restrictions, and creates penalties for these offences. Australia currently has three submarine cable protection zones; two off the Sydney coast and one off the Perth coast.

No new submarine cable protection zones were considered during 2008–09, however in December 2008, the ACMA and the Department of Defence signed a Memorandum of Understanding (MOU) to protect cables in areas where submarine cable protection zones overlap with Defence practice areas. The MOU formalises the ACMA's responsibility to inform carriers of their obligation to consult Defence prior to accessing practice areas and clarifies changes to Defence procedures for operations in defence practice areas where those operations may impact on the protection zones.

The legislation also provides for a permit regime that requires carriers to obtain a permit from the ACMA to install a new submarine cable within a protection zone and outside a protection zone. This regime provides for more consistent and efficient cable planning and encourages the co-location of new cables in existing protection zones.

One cable operator, PIPE International, was granted a non-protection zone installation permit in 2008–09 to install a cable from the edge of the Northern Sydney Protection Zone through Australian waters routed to Guam. PIPE International was granted an installation permit for the portion of the route that was located inside the Northern Sydney Protection Zone in 2007–08. The ACMA met its statutory obligations and key performance indicators in issuing both these permits.

Compliance investigations

The ACMA works with the communications and media industries to establish compliance with legislation, codes, licence conditions and other regulatory instruments. The ACMA also registers and monitors compliance with industry codes developed by the communications industry.

Radiocommunications

The ACMA conducts investigations into suspected contraventions of the Radiocommunications Act and subordinate licences relating to the operation of radiocommunications transmitters. These contraventions include unlicensed operation of transmitters, breaches of licence conditions and breaches of offence provisions relating to interference.

In encouraging compliance with the Radiocommunications Act, the ACMA generally employs a graduated approach to enforcement. Measures proportionate to the offence range from the least intrusive advice notices, through warning and infringement notices, to prosecution through the courts or the application of administrative sanctions, such as licence suspension or cancellation.

In 2008–09, the ACMA conducted 165 radiocommunications-related investigations (see Table 18). These investigations resulted in 20 advice notices and 50 warning notices being issued. There were 20 notices issued relating to unlicensed operation of a transmitter. There was no radiocommunications infringement notices issued or prosecutions commenced during the reporting period.

Radiocommunications licences that authorise low power open narrowcasting (LPON) services are subject to conditions restricting the power and field strength of the service and to ‘use it or lose it’ provisions. The ACMA investigated 23 LPON services for compliance with these provisions (see Table 19).

Radiocommunications interference management

The ACMA investigates complaints about radiofrequency interference to radiocommunications equipment. Interference is divided into two categories; radiocommunications interference and domestic systems interference. Radiocommunications interference is interference affecting a radiocommunications receiver that may be used typically in commercial, public safety and recreational services. Domestic systems interference is a term that means interference to radio or television broadcasting reception in domestic premises.

A failure to comply with technical standards or transmitter licence conditions may result in interference to radiocommunications. To determine compliance with the regulatory framework, the ACMA regularly conducts interference tasks and site audits.

Table 18: Radiocommunications investigations, 2007–08 and 2008–09

Action type	Number of actions	
	2007–08	2008–09
Radiocommunications-related investigations	287	165
Advice notices issued	32	20
Warning notices issued	127	50
Notices related to unlicensed operation of a transmitter	49	20

Table 19: LPON investigations, 2007–08 and 2008–09

Action type	Number of actions	
	2007–08	2008–09
LPON investigations conducted	26	23
No LPON licences were cancelled during the reporting period.		

Table 20: Radiocommunications compliance actions, 2007–08 and 2008–09

Action type	Number of actions	
	2007–08	2008–09
Advice notices issued	208	109
Warning notices issued	106	72

During the reporting period, the ACMA responded to 688 complaints of interference to radiocommunications services, and 469 complaints of interference to domestic radio and television broadcast reception. In addition to responding to reported interference, the ACMA inspected 95 radiocommunications sites for compliance with transmitter licence conditions. As a result of interference investigations and site inspection activities, the ACMA issued 181 compliance actions (see Table 20).

In the reporting period, the ACMA responded to 249 complaints of interference to mobile telecommunications networks. A further 52 radiocommunications complaints involved interference to public protection radio services, including interference to emergency services radio networks and air traffic communications. The ACMA processed all radiocommunications interference complaints related to safety-of-life issues immediately on receipt. Of the public protection complaints that were affected by external interference, the ACMA resolved 71 percent of these within 45 days. The ACMA also located 51 inappropriately activated emergency position indicating radio beacons, however with the switch to the 406 MHz distress beacons (containing GPS capabilities) it is expected that the ACMA's involvement in the location of these devices will diminish.

During the reporting period, a number of operation centres were closed. Despite these office closures, the average time taken to resolve interference complaints has not been affected.

Householders resolved most domestic broadcast interference by using the information in the ACMA's self-help booklet *Better Television and Radio Reception – Identifying your Interference Problem* or by seeking advice from the ACMA. In the reporting period, the ACMA distributed more than 1,400 copies of the booklet.

Standards compliance programs

The ACMA conducts a supplier auditing program to ascertain product compliance with technical standards under the ACMA's technical regulatory arrangements. This auditing program focuses on establishing compliance with C-tick and A-tick labelling and record-keeping requirements under the Radiocommunications Act and the Telecommunications Act.

A supplier audit may result from a random selection of registered suppliers, a complaint from industry stakeholders or market intelligence indicating a sector of industry having a higher than acceptable level of non-compliance.

In 2008–09, the ACMA conducted 94 audits of suppliers for compliance with the standards regulatory requirements (see Table 21). Of these audits, 16 failed to meet the labelling and record-keeping requirements. Suppliers were issued with two advice notices and five warning notices. No infringement notices were issued during this period of time.

Technical standards

The ACMA initiated 27 investigations into compliance with telecommunications standards regulation under Part 21 of the Telecommunications Act. The investigations resulted in five advice notices and 13 warning notices being issued.

Complaints

The ACMA received 160 complaints regarding the supply of electrical and electronic, telecommunications and radiocommunications devices and as a consequence initiated 105 investigations into compliance of those devices with the applicable compliance and labelling arrangements. The investigations resulted in the issuing of 12 warning notices and seven advice notices.

Table 21: Audits of manufacturers and importers (suppliers), 2007–08 and 2008–09

Action type	Number of actions	
	2007–08	2008–09
Audits conducted	185	94
Failed audits	208	16
Advice notices issued	15	2
Warning notices issued	8	5

Telecommunications

The ACMA's approach to telecommunications code compliance

The ACMA has a thorough ongoing compliance program which addresses industry code compliance on consumer protection issues through audits, education and, where necessary, formal compliance action against providers. The ACMA identifies and addresses areas of concern in consultation with other bodies such as the Telecommunications Industry Ombudsman (TIO).

The ACMA's code compliance approach is shown in Figure 3. This provides the ACMA with a suite of actions, allowing a graduated use of regulatory measures using the minimum power or intervention necessary to achieve the desired result. The approach provides transparency to the industry on the likely steps that the ACMA will take in situations where it believes that code breaches need to be addressed. The ACMA retains the discretion to decide where an individual matter falls within the approach, and may decide it is appropriate to consider urgent matters at higher categories on a case-by-case basis. The ACMA can accept an enforceable undertaking at any stage of the compliance process.

In general, the ACMA applies the framework in a graduated manner. The aim of this approach is to enhance the effectiveness of co-regulatory telecommunications codes and the quality of the consumer experience. The approach is designed to encourage industry compliance with codes through support, education, communication, cooperation and deterrence. It incorporates a program of compliance measures, both proactive and reactive, supported by enforcement action where necessary.

Code compliance activity

In 2008–09, the ACMA has undertaken activity on more than 300 issues affecting telecommunications customers. This activity—focussing on breaches of relevant codes—was undertaken in response to issues identified by the ACMA. An issue may involve a single CSP or a particular sector of the industry. The ACMA has relied on statistics provided by the Telecommunications Industry Ombudsman to identify systemic issues. A summary of the ACMA's code compliance actions undertaken in 2008–09 against the Figure 3 framework is in Table 22.

ACMA audit activity

As part of its code compliance activity, the ACMA undertook significant, proactive audit activity in 2008–09. Audits may involve assessing publicly available information from service providers such as terms and conditions, and advertisements. Alternatively, the ACMA may write to a sample of suppliers seeking specific information to assist in a particular activity. Where audit activity identifies particular compliance concerns, the ACMA considers the most appropriate method by which to handle the matter in accordance with its code compliance approach.

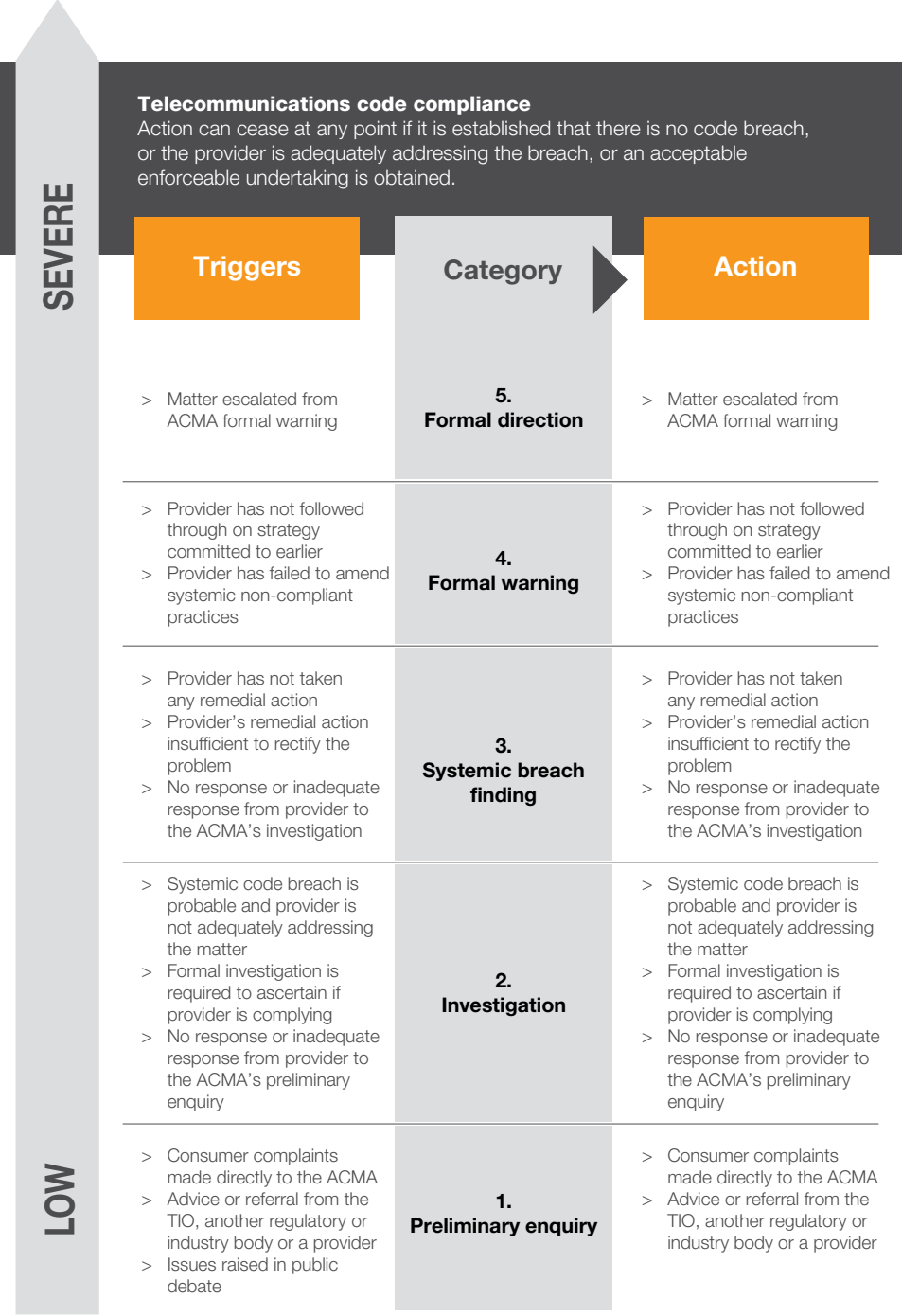
Credit management/financial hardship provisions of the TCP Code

In response to a request from the ACMA's Consumer Consultative Forum, the ACMA assessed 44 carriage service providers' compliance with the financial hardship provisions of the C628:2007 *Telecommunications Consumer Protections Code* (the TCP Code).

Table 22: Code compliance actions, 2008–09

Code	Level 1 – Preliminary enquiries	Level 2 – Investigation	Level 3 – Breach finding	Level 4 – Formal warning	Level 5 – Formal direction
Billing	120	6	1	0	0
Complaint Handling	88	11	1	0	0
Information on Prices, Terms and Conditions	14	0	0	0	0
Consumer Contracts	4	1	0	0	0
Credit Management	44	2	0	0	2
Customer Transfer	1	2	1	0	0
Accessibility Features	15	2	0	0	0
* Multiple issues raised in one investigation					

Figure 3: The ACMA's approach to telecommunications code compliance matters



The TCP Code requires carriage service providers to have a policy to assist customers experiencing financial hardship and, on request, a carriage service provider must assess a customer's eligibility for assistance under its financial hardship policy taking into account the customer's individual circumstances.

Of the 39 providers still operating in February 2009, the assessment found the majority of providers to be compliant.

Two providers, BKB Internet Pty Ltd and Ezycall Pty Ltd, were found to have contravened the TCP Code by having non-compliant policies. As a result, the ACMA formally directed these providers to comply with sections 7.5 and 7.6 of the TCP Code. BKB Internet is now compliant while the direction issued to Ezycall has been revoked as it no longer has any Australian telecommunications customers. A final report on the ACMA's assessment was publicly released in May 2009.

Direct debit provisions of the TCP Code

The ACMA commenced a website-based assessment of a selection of providers' compliance with the direct debiting provisions of Chapter 6 (Billing) of the TCP Code in September 2008. The sample of providers assessed was based on 118 providers who had a billing-related complaint recorded with the TIO during the June 2008 quarter.

Chapter 6 of the TCP Code sets minimum standards regarding the manner and timeliness of issue of customer bills, billing information provided to customers and facilities for customers to verify charges presented in bills.

The carriage service providers were assessed to determine their compliance with subclause 6.5.3(a) of the TCP Code which relates to the automatic direct debiting of billed amounts.

The ACMA has found the large majority (97.5 per cent) of those assessed are compliant. The ACMA is currently working with those non-compliant providers to achieve compliance. If they fail to comply within a timely fashion, the ACMA will consider its regulatory options regarding enforcement.

Once the ACMA finalises its dealings with the non-compliant providers, it intends to release a public report on its assessment.

Information Accessibility Features for Accessibility Features Code

In June 2008, the ACMA commenced an audit of equipment suppliers to establish the level of industry compliance with ACIF C625:2005 *Information Accessibility Features for Telephone Equipment* (the Accessibility Features Code).

ACMA assessed 17 equipment suppliers based on information from an initial desktop data-gathering, followed by shadow shopping to determine whether information was available at a retail level. The ACMA then wrote to suppliers in late 2008 seeking information to determine their compliance where the ACMA was unable to find appropriate information on the suppliers' websites.

The ACMA then worked with those suppliers whose accessibility information required improvement to achieve compliance, in accordance with the ACMA's code compliance approach.

There was a significant improvement in available information following the ACMA's letter to equipment suppliers regarding compliance. The ACMA is currently finalising its assessment of suppliers. Once the ACMA finalises its assessment, which is expected in the first quarter of 2009–10, the agency intends to release a public report on its assessment.

Assessment of compliance with the complaint-handling policy provisions of the TCP Code

In December 2008, the ACMA commenced a compliance assessment of 97 telecommunications carriage service providers to assess their compliance with section 9.1.2 of the TCP Code.

Section 9.1.2 of the code requires providers to have and publish a complaint-handling policy which includes information about the right to complain and how, when and where to make a complaint.

The sample of providers assessed was based on 97 providers who had a consumer complaint lodged with the TIO about their customer complaints practices and processes in the June 2008 quarter.

The assessment involved writing to each of the providers requesting that they provide information on how they meet the requirements of section 9.1.2 of the TCP Code. The ACMA has finalised its assessment of all providers who have provided information with the large majority (98 per cent) assessed as compliant.

The ACMA is considering its regulatory options for two providers who have not responded to the ACMA's requests for information. It expects to finalise its decision in the first quarter of 2009–10 and release a public report on its assessment.

Consumer Consultative Forum

The Consumer Consultative Forum (CCF) is established under section 59 of the ACMA Act to assist the ACMA to perform its functions relating to consumers.

Chaired by the ACMA's Deputy Chair, the CCF allows for discussion between consumer representatives, industry bodies and regulators about communications issues affecting consumers. In 2008–09, the forum met three times: 23 July 2008, 19 February 2009 and 15 May 2009. Topics discussed at these meetings included:

- > broadband switching and accessible broadband for consumers
- > mobile premium services
- > emergency services
- > downloads and accessible content
- > industry compliance with the complaint handling provisions of the Telecommunications Consumer Protections Code
- > National Broadband Network
- > the independent Disability Equipment Program
- > review of the industry code process
- > the formation of the Australian Communications Consumer Action Network (ACCAN)
- > capped plans
- > consumer behavioural economics.

On 22 July 2008, the ACMA also co-hosted the second Communications Consumer Dialogue in Sydney, in conjunction with Communications Alliance. The dialogue focussed on the use of technologies to empower communities.

Cabling

In 2008–09, the ACMA received 24 complaints regarding customer cabling and as a consequence initiated 12 cabling inspections and two investigations into compliance with the cabling provider rules of the Telecommunications Act. These rules regulate telecommunications cabling installed by registered cablers within customer premises, beyond the carrier's network boundary point. The ACMA issued one advice notice and six warning notices in contravention of the Cabling Provider Rules. In addition, the ACMA resolved 12 complaints relating to unregistered cablers.

Telemarketing

The ACMA is responsible for enforcing the *Do Not Call Register Act 2006* (the DNCR Act), which prohibits most types of telemarketing calls being made to numbers on the Do Not Call Register. The ACMA also enforces the Telecommunications (Do Not Call Register) (Telemarketing and Research Calls) Industry Standard 2007 (industry standard).

If consumers receive telemarketing calls more than 30 days after registering their number on the Do Not Call Register, they can lodge a complaint with the register operator online, by telephone or by post. Where a complaint raises a potential contravention of the DNCR Act and/or industry standard, the register operator forwards the complaint to the ACMA for action.

Complaints

During 2008–09, a total of 10,644 complaints were received. Of these, 9,036 raised potential contraventions of the DNCR Act and/or industry standard and were handled by the ACMA. The remaining 1,608 were handled by the register operator.

Figure 4 shows the complaints received each month during 2008–09.

The number of complaints received during 2008–09 represents a 60 per cent drop compared to the number of complaints received during 2007–08, which is indicative of a significant improvement in industry compliance. Figure 5 shows the trend in complaint receipt on a quarterly basis from July 2007 to June 2009.

Figure 4: Telemarketing complaint receipt by month, 2008–09

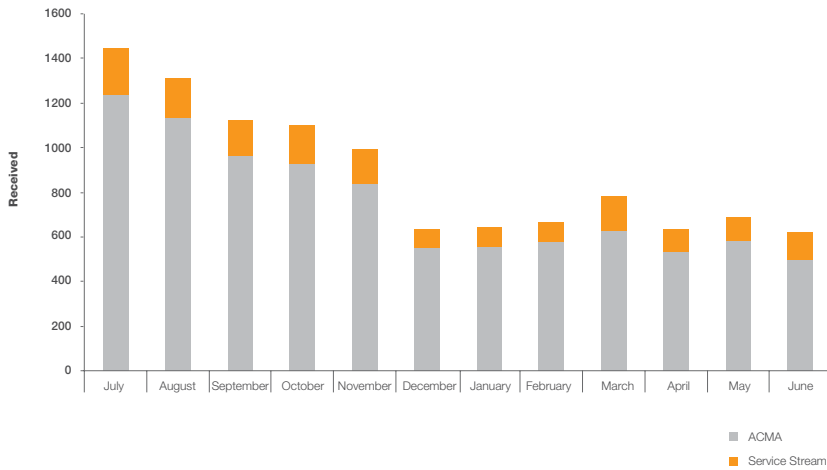
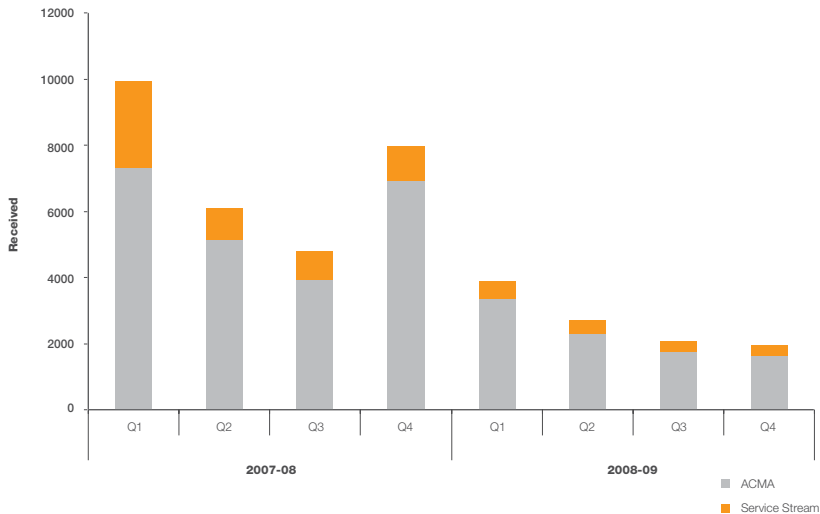


Figure 5: Telemarketing complaint receipt by quarter, July 2007 to June 2009



The most significant source of complaints is the telecommunications sector, which accounts for 51 per cent of the complaints received by the ACMA. Figure 6 shows the breakdown of complaints by industry sector, where the consumer was able to identify the business that called them.

Figure 6: Telemarketing complaints by industry sector

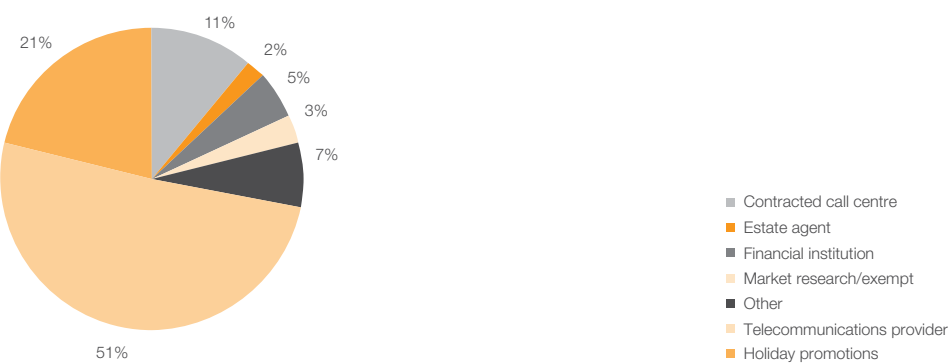


Table 23: ACMA's telemarketing complaint-handling performance, 2008–09

Measure (days)	Target (per cent)	Performance (per cent)
7	50	89.9
14	75	96.1
21	90	97.9

Table 23 shows the ACMA's telemarketing complaint-handling performance. Performance in 2008–09 bettered the ACMA's target complaint-handling time frames.

The ACMA's approach to telemarketing compliance

In approaching compliance, the ACMA focuses on reducing the number of prohibited telemarketing calls received by consumers whose numbers are on the Do Not Call Register. This is achieved through:

- > education
- > a tiered warning system
- > formal investigations and enforcement action.

The ACMA's general approach to compliance is to try to resolve a matter, where appropriate, without using its formal powers. Where complaints are received, the ACMA generally issues an advisory letter to the relevant business providing it with an opportunity to review its compliance arrangements as necessary to address the apparent issues.

If a business continues to be the subject of consumer complaints, it will generally receive a follow-up warning letter advising that any further complaints may be the subject of a formal investigation.

The majority of businesses act on an advisory or warning letter from the ACMA, and consumer complaints about them stop. During 2008–09, the ACMA issued 322 advisory letters and 68 warning letters to businesses that had been the subject of consumer complaints.

In overseeing compliance with the legislation, the ACMA has balanced a willingness to work with industry with a readiness to take formal action where required.

Investigations and enforcement

During 2008–09, the ACMA finalised 21 investigations into alleged contraventions of the DNCR Act. Enforcement actions arising from these investigations included:

- > giving seven infringement notices, with the largest penalty paid to date being \$147,400 paid by Dodo Australia
- > accepting eight enforceable undertakings
- > issuing six formal warnings.

Industry liaison and education

Following a series of industry visits, the ACMA has published a *Do Not Call Register Act 2006 Compliance Guide*. The guide provides telemarketers with practical advice about measures they can take to aim for best practice compliance. The objective of the guide is to assist telemarketers to meet their regulatory obligations under the DNCR Act, and thereby reduce the number of prohibited calls made to registered numbers.

During 2008–09, the ACMA conducted a campaign to improve compliance by telecommunications providers. The campaign incorporated education (including the publication of practical advice about adhering to compliance requirements), warnings to businesses that had been the subject of consumer complaints, formal investigations, and enforcement action in cases where apparent non-compliance was identified. The ACMA also publicised the outcomes of some investigations, which has had a deterrent effect across the industry.

The ACMA also embarked on an education and awareness campaign aimed at improving the real estate industry's understanding of the DNCR Act and compliance with its provisions.

International engagement

The ACMA engages with international regulators on telemarketing compliance issues to:

- > seek investigatory assistance in particular cases
- > facilitate information sharing and cooperation, more generally.

Investigatory assistance

During 2008–09, the ACMA made contact with the United States Federal Trade Commission (FTC) to seek assistance in dealing with a Florida-based company that appeared to be responsible for a substantial volume of 'free holiday prize' calls where consumers whose numbers were on the register were asked to 'dial 9'. At the time it contacted the FTC in June 2008, the ACMA had received more than 2,000 complaints about such calls.

The FTC's contact with the company, and the company's subsequent contact with the ACMA, succeeded in communicating strongly to the company:

- > its obligations under the Australian Do Not Call Register legislation
- > that the ACMA was willing and able to respond on a formal basis to complaints about calls made to Australian consumers from the United States.

Following the FTC's assistance, the number of consumer complaints about 'free holiday prize' calls has dropped off almost completely.

Information-sharing and cooperation

The ACMA has engaged the support of five overseas regulators (in the United States, Hong Kong, the United Kingdom, India and Canada) to establish an online discussion and information-sharing forum for international Do Not Call Register regulators.

The forum will be established by the ACMA during 2009–10, and administered by the ACMA on an ongoing basis.

Refer to *Consumer safeguards* in Chapter 3 for more information about the Do Not Call Register.

Research into community attitudes to the Do Not Call Register and spam

In April 2009, the ACMA commissioned Newspoll to conduct research relating to the Do Not Call Register and spam. The research surveyed community attitudes to unwanted electronic communications including unsolicited telemarketing calls. Among other things, it will help inform the Department of Broadband, Communications and the Digital Economy's review of the *Do Not Call Register Act 2006* in 2010, and the development of the ACMA's consumer education and awareness materials.

The research surveyed more than 1,600 Australians aged over 18 and was conducted in June 2009. Findings from the research will be made available later in 2009.

Anti-spam and e-Security
Complaint-handling

The ACMA is responsible for the enforcement of the *Spam Act 2003* (the Spam Act), which requires that all commercial electronic messages—including emails, SMS and MMS messages, and instant messaging—be sent with the recipient’s consent, clearly identify the sender and include a functional unsubscribe facility.

Members of the public can lodge complaints and enquiries about spam on the ACMA’s website. The ACMA responds in writing to each complaint or written enquiry with the target of actioning 90 per cent of these complaints and enquiries actioned within eight days.

In 2008–09, the ACMA received 3,947 complaints about spam, a 31 per cent increase from last year (see table 24). This increase is attributed to positive media coverage of enforcement outcomes and increasing awareness of SMS spam. On average, 95 per cent of complaints were closed in eight days or less.

The record number of spam complaints received during the year showed an increase of 71 per cent for complaints about SMS spam, the most significant increase since the Spam Act was implemented. The total number of complaints received about email spam was 2,955, a 21 per cent increase over last year. SMS complaints totalled 992 during the year. The ACMA has received 11,050 complaints since the Spam Act commenced.

Enforcement

During 2008–09, the ACMA progressed approximately 25 ongoing mid-level and major investigations related to alleged breaches of the Spam Act including lodgement of the first Federal Court action involving SMS spam. By June 2009, the ACMA had obtained interlocutory orders against Mobilegate Ltd, Winning Bid Pty Ltd, Jobspy Pty Ltd and other parties concerning the sending of unsolicited SMS. In the case, the ACMA alleges, among other things, that these companies and individuals deceptively used fabricated dating profiles to dishonestly obtain a financial advantage or gain from Australian mobile telephone account holders. The SMS messages relate to services called Safe Divert and Maybemeet. The case continues.

The ACMA’s focus on SMS-based marketing continued to be a strong area of the ACMA’s anti-spam enforcement activity in 2008–09 and this is reflected in the enforcement outcomes. During 2008–09, the ACMA issued seven infringement notices totalling \$376,200, with six issued to SMS service providers. In addition, the ACMA issued three formal warnings and accepted two enforceable undertakings, including one with a financial component of \$10,000. The ACMA also sent out 967 letters and emails during the year to companies informing them about the requirements of the Spam Act.

While the ACMA’s SMS spam enforcement activities will continue in 2009–10, complaints concerning email activity by email marketing users, such as real estate agents and e-retailers, will focus investigative efforts to particular industry sectors. The ACMA’s communications activities concerning spam will reflect this shift.

Australia’s spam ranking remains low, with the international anti-spam and e-security company Sophos ranking Australia as 32nd on its list of top spam-relaying countries for the 2008 calendar year. The ranking continues to reflect the ACMA’s anti-spam compliance and enforcement work, continuing e-security initiatives and international collaboration initiatives.

Detection initiatives

The SpamMATTERS program was launched by the ACMA in May 2006. The SpamMATTERS reporting ‘button’ can be downloaded from the ACMA’s website and installed in the Microsoft Outlook and Outlook Express email programs. Once installed, users can simultaneously delete their spam and report it to the ACMA with one click of their mouse. Spam reported by using the button is captured forensically intact and contains the information that the ACMA, law enforcement agencies and overseas regulators need to track down spammers and take action against them.

By 30 June 2009, more than 376,240 users had submitted 49,759,751 items of email spam.

Table 24: Written complaints and enquiries about spam received by the ACMA, 2008–09

	Written complaints	Written enquiries received
Total	3,947	635

The data obtained through SpamMATTERS was used in several ACMA investigations. It was also used to provide phishing information to the Australian High Tech Crime Centre and to assist overseas authorities in their investigations.

International cooperation

In April 2009, the ACMA signed a memorandum of understanding with the New Zealand Department of Internal Affairs to establish channels of communication that will allow both agencies to move quickly in the ever-changing spam environment. The agreement allows each agency to promote and foster the assistance and exchange of information relevant to regulatory functions. It also reflects the historically strong working relationship and economic ties between the two countries.

The ACMA is actively involved in international efforts to fight spam and enhance e-security. International cooperation is important as more than 99.5 per cent of spam received in Australia is sent from overseas.

The ACMA chairs and provides secretariat services to the Seoul–Melbourne Multilateral Memorandum of Understanding on Cooperation in Countering Spam (MOU), which has 13 members representing 10 Asia-Pacific economies. In 2008–09, there were two meetings of the MOU group—an online conference conducted in December 2008 and a face-to-face meeting held in Singapore in April 2009.

The Korean Information Security Agency (KISA) is a founding member of the MOU. Representatives from KISA visited the ACMA's Melbourne office in November 2008 to exchange information with the ACMA on current spam and e-security trends in Korea and Australia.

The ACMA continues to share information with other Seoul–Melbourne MOU member countries for action against spam being sent from their jurisdictions.

The ACMA is also a founding member of the London Action Plan (LAP). At 30 June 2009, the LAP had 36 government members, 43 industry participants and five observers. In 2008–09, the ACMA participated in eight teleconferences with other organisations represented in the LAP and attended the LAP meeting held in Germany in October 2008.

The LAP's status as a prominent anti-spam international collaboration has been augmented by the ACMA's active participation and fostering of links with other relevant Australian and international law enforcement bodies. The ACMA continues to receive assistance from overseas agencies in the exchange of information and is currently working with other enforcement agencies in combating a worldwide spam operation.

On 19 October 2007, the Memorandum of Understanding between the Australian Commerce and Industry Office, Taipei, and the Taipei Economic and Cultural Office in Australia Concerning Cooperation in the Regulation of Spam was signed. The ACMA and the National Communications Commission, Taiwan (NCC), are the implementing authorities for this agreement which is directed at minimising spam originating in, and being sent to, end-users in the respective economies.

While the ACMA and the NCC have liaised previously on anti-spam matters, the first face-to-face meeting between the ACMA and the NCC took place in Taiwan in April 2009.

In addition to these international activities, the ACMA meets regularly with overseas agencies to discuss possible spam operations and share information on anti-spam activities and trends.

Broadcasting Complaints and investigations

The ACMA conducts various types of investigations under the *Broadcasting Services Act 1992* (the BSA). Investigations under Part 11 of the BSA are generally conducted in response to complaints received by the ACMA relating to a possible breach by:

- > a licensed broadcaster: of the BSA, the regulations, a licence condition, a class licence or a code of practice
- > the ABC or SBS: of a code of practice.

Role of the ACMA

The ACMA receives complaints directly from people about possible breaches of the BSA, the regulations, licence conditions and class licences. The ACMA's role in dealing with complaints under industry codes is prescribed by the BSA. Under section 148 of the BSA, a code complaint must be made first to a licensee and can only be made to the ACMA if the complainant is not satisfied with the licensee's response. In addition to investigations triggered by complaints, the ACMA can instigate its own investigation and the Minister for Broadband, Communications and the Digital Economy can direct the ACMA to conduct an investigation.

The ACMA's performance of its role is informed by Section 5 of the BSA, which requires the ACMA to, among other things:

- > produce regulatory arrangements that are stable and predictable
- > deal effectively with breaches of the legislation
- > use its powers in a manner that is commensurate with the seriousness of the breach concerned.

This requires the ACMA to use its enforcement powers appropriately and to identify the most effective and proportionate way of dealing with breaches.

The ACMA's powers

The ACMA has a range of powers intended to enable it to deal effectively with breaches of the rules (including, in particular, the program standards and licence conditions) established by the BSA or the codes developed under the BSA, all in a manner commensurate with the seriousness of the breach.

Where there has been a breach of a code, the ACMA may accept an enforceable undertaking for the purpose of securing future compliance with the code or impose an additional licence condition under section 43 of the BSA requiring a licensee to comply with the code (for example, if there is a breach by a number of licensees relating to the same obligation).

For a licence condition to be imposed under section 43 of the BSA, the ACMA first needs to give the licensee written notice of its intention to impose the licence condition; the licensee must be given a reasonable opportunity to make representations to the ACMA in relation to the proposed licence condition and the proposed licence condition must be published in the Commonwealth Gazette before becoming effective. The licensee can apply for the ACMA's decision to be reviewed by the Administrative Appeals Tribunal.

The ACMA may also informally agree to accept measures by broadcasters to improve compliance. For example, the ACMA has on many occasions agreed measures with licensees involving action by them intended to ensure compliance problems are addressed and are effective. Such measures have often succeeded in improving behaviour within licensees (and networks).

If a licence condition is successfully imposed and a licensee breaches such an additional licence condition, then as alternatives to suspending or cancelling the licence, the ACMA has power to issue a remedial direction requiring compliance. In the event that the licensee does not comply with a remedial direction, the ACMA may:

- > pursue a civil penalty
- > refer the matter for prosecution as an offence
- > suspend or cancel the licence
- > at any time, accept an enforceable undertaking (including provisions dealing with compliance with a code).

If the ACMA has convincing evidence that codes of practice have failed to provide appropriate community safeguards in relation to a matter, it can determine a new program standard to apply to a particular section of the broadcasting industry.

Complaints process—codes of practice

If a person wishes to complain about something of concern they have seen or heard on a program broadcast by a radio or TV station, and the matter is covered by a code of practice, the person must, by law, first make a written complaint to the station.

The table below, Table 25, includes investigations that, during the reporting period, have resulted in formal enforcement action. The ACMA may also informally agree to accept measures by broadcasters to improve compliance following breaches of codes of practice. For example, the ACMA has, on many occasions agreed measures with licensees involving action by them intended to ensure compliance problems are addressed are effective.

The numbers of complaints and investigations about radio and television licensees' compliance with codes of practice, licence conditions, standards and the BSA are provided in Table 25. Details of breach and non-breach findings by state and territory and category of broadcasting service are in Appendix 7.

Control

ACMA's broader role in relation to media ownership and control rules is discussed under *Ownership and Control* on page 20. There were no formal investigations into ownership and control in the 2008–09 financial year.

Category-of-service opinions

Section 21 of the Broadcasting Services Act allows a person who is providing, or who proposes to provide, a broadcasting service to apply to the ACMA for an opinion as to which category of broadcasting service the service falls into. During the reporting period, the ACMA provided one such opinion. This represents a major decrease from the previous reporting period, in which the ACMA provided 62 opinions.

Table 25: Summary of broadcasting complaints and investigations

Written complaints and enquiries received	1464
Written complaints and enquiries actioned within time frame of seven days*	796 (98.4%)
Investigation completed	194
Investigation resulting in breach findings	80
Investigations regarding compliance with Broadcasting Services Act	2
Investigations regarding compliance with licence conditions or standards	24
Investigations regarding compliance with codes of practice	54
Investigations resulting in non-breach findings	109
Investigations regarding compliance with Broadcasting Services Act	0
Investigations regarding compliance with licence conditions or standards	19
Investigations regarding compliance with codes of practice	90
Investigations concluded where, for example, the complaint is withdrawn	5
Investigation completed within time frame of six months	159 (82%)
Investigations resulting in enforcement action	
2UE commercial radio—civil penalties imposed by the Federal Court in relation to breaches of the Commercial Radio Disclosure Standard	
Nine Network and WIN Corporation—enforceable undertakings provided regarding classification of <i>Underbelly</i> and Gordon Ramsay programs	
4DDB community radio—enforceable undertakings provided regarding compliance with time limit on sponsorship announcements and prohibitions on broadcast of advertisements and operating for profit	
Lambing Flat Community Broadcasters Inc temporary community radio—enforceable undertakings provided regarding time limit on sponsorship announcements	
Section 21 Opinions	
Applications for section 21 opinions received	1
Applications for section 21 opinions actioned within statutory time frames	1
Applications for section 21 opinions remaining to be actioned at 30 June 2009	1

* KPI for written complaints reports on non-community related complaints only (being a total 809, of which 796 were responded within KPI); community KPI for written complaints and enquiries unavailable at this time.

Category-of-service opinions must be provided to applicants within strict statutory deadlines. All opinions provided by the ACMA during the reporting period were done so within the required statutory time frames. Under the BSA, the ACMA can only make its opinion public once the service has commenced.

Children's television standards

In 2008–09, the ACMA investigated one matter under the Children's Television Standards 2005 (CTS) relating to the broadcast of C material by Imparja Television Pty Ltd (IMP) and Regional Television Pty Ltd (QQQ).

The CTS require licensees to broadcast children's (C) material within designated time bands and each weekday, including during school holidays.

It was brought to the ACMA's attention that IMP and QQQ failed to broadcast C material within the designated C time bands due to time zone issues and/or school holidays that were not common within one licence area. In March 2009, the ACMA decided to close the investigation without a breach finding in recognition of the unique circumstances of Remote Central and Eastern Australia licence area television licensees.

The ACMA proposes to take action in the 2009–10 reporting year to provide for these unique circumstances in the context of its broader review of the Children's Television Standards.

Anti-terrorism standards

During the reporting period, the ACMA conducted an investigation into the broadcast of the Al-Manar TV service in Australia via an overseas-based satellite company. The investigation sought to ascertain whether there had been a breach of the Broadcasting Services (Anti-terrorism Requirements for Open Narrowcasting Television Services) Standard 2006.

The ACMA found that content broadcast into Australia from 28 August 2008 to 5 September 2008 did not breach the standard. While the ACMA found references in some program content to a designated terrorist organisation (Hezbollah), there was no content that could reasonably be construed to *directly recruit* people to join or participate in the activities of Hezbollah, or to *solicit funds* (or assist in the collection or provision of funds) for Hezbollah. As a consequence, no breach of the Anti-terrorism Standard was found.

The ACMA also received a complaint regarding the subscription satellite television service Tharisanam TV. The complaint is currently being investigated to ascertain whether there has been a breach of the Broadcasting Services (Anti-terrorism Requirements for Subscription Television Narrowcasting Services) Standard 2006. The investigation will be concluded in the second half of 2009.

Commercial radio standards

Investigation into compliance by 2UE with commercial radio standards and subsequent actions

On 20 November 2008 the ACMA published the report, *Compliance Assessment Report – Radio 2UE Sydney Pty Ltd*.

The report assessed compliance by 2UE with an enforceable undertaking given under section 205W of the BSA on 24 September 2007 under which the *John Laws Morning Show* would be monitored and 2UE would take action if disclosure announcements were not made when presenters mentioned sponsors. The undertaking was given in response to the ACMA's earlier findings that 2UE failed to cause disclosure announcements to be made on 20 occasions in August 2006 when Mr Laws mentioned a sponsor, Telstra, including during an interview with the then Prime Minister. The disclosure obligations are set out in the Broadcasting Services (Commercial Radio Current Affairs Disclosure) Standard 2000 (the Disclosure Standard).

The ACMA reviewed reports of the monitoring conducted during October and November 2007 and found 13 incidents, all amounting to breaches of the Disclosure Standard, when no disclosure announcement had been made, or when a disclosure announcement was not made in the manner or at the time required under the Disclosure Standard. As 2UE had either failed to take action in relation to these breaches, or had failed to report the breaches to the ACMA (or both), the ACMA found that 2UE had breached its enforceable undertaking on these occasions.

The ACMA also found that 2UE had breached the standard licence condition set out at subsection 8(1) of Schedule 2 to the BSA, requiring that the licensee will comply with program standards applicable under Part 9 of the BSA. As the Disclosure Standard is a program standard made under Part 9, and the ACMA found that the licensee breached the standard on 13 occasions, the ACMA also found that the licensee breached the standard licence condition on 13 occasions.

The ACMA applied to the Federal Court in November 2008 for a civil penalty order to be made under section 205F of Division 2 of Part 14B of the BSA against Radio 2UE Sydney Pty Ltd for breach of the licence condition. The matter was heard in March 2009 and a decision was expected to be made early in the 2009–10 reporting period.

Broadcast of material below or near the threshold of normal awareness

The Commercial Television Industry Code of Practice 2004 proscribes the broadcast of a program which is likely, in all the circumstances, to use or involve a technique which attempts to convey information to a viewer by transmitting messages below or near the threshold of normal awareness.

During the reporting period, ACMA found that four TEN Network stations breached the code in the broadcast of the *2007 ARIA Music Awards* on 28 October 2007.

The program included brief displays of sponsorship logos within rapid cut graphics during the nomination segments, which the ACMA found to be a ‘technique’ that attempted to convey information to viewers. Throughout the entire program, the ACMA found 41 of the logo appearances were either below or near the threshold of normal awareness.

The ACMA was satisfied that the material was not broadcast ‘reasonably’ pursuant to the exception at clause 1.9.1 of the code, as the program maker failed to exercise ‘sound judgment’ in the use of this technique and its placement of the information concerned throughout the program.

TEN advised the ACMA in response to the breach finding that it would:

- > distribute the investigation report to relevant production staff (both in-house and external) to ensure that future productions of ARIA Awards are consistent with the ACMA’s view
- > not use the same rapid cut use of sponsor logos for the (then) upcoming *2008 ARIA Music Awards*
- > use the finding as an example in regular code training sessions with staff, to ensure future compliance
- > highlight the code clause in TEN’s external production agreements.

The ACMA notes that this was the licensee’s first breach of these provisions and that no complaints were received about the *2008 ARIA Music Awards*.

Broadcast of unauthorised words of an identifiable person

The Commercial Radio Code of Practice 2004 prohibits the broadcast of words of an identifiable person that had been recorded without the knowledge of the person and that person had not subsequently expressed consent to the broadcast of the words prior to their broadcast.

During the reporting period, the ACMA found the licensee of Melbourne commercial radio station 3FOX, Austereo Pty Ltd, breached the code by broadcasting the words of an identifiable person without that person’s consent during *The Matt and Jo Show*.

Part of the program included a segment entitled ‘It’s Time to Go’ and involves a member of the public phoning someone they live with and trying to convince that person that they want them to move out. If he or she is successful then both parties win a sum of money. The conversation is eventually interrupted by the program’s presenters who explain the deception to the unsuspecting party.

In response to the breach finding, the licensee has implemented a new system whereby the express approval of every identifiable person is recorded before their words are broadcast. The licensee also undertook, among other things, training sessions in February 2009 during which the licensee’s obligations under the code were strongly reiterated to all operational staff.

The ACMA will continue to monitor the licensee’s future performance to ensure that the above actions result in future compliance with the provisions of clause 6.1 of the code.

Nine’s AFL Footy Show investigation

The Commercial Television Industry Code of Practice 2004 prohibits the broadcast of a program likely, in all the circumstances, to provoke or perpetuate severe ridicule against a person or group of persons on the grounds of gender.

During the reporting period, ACMA conducted an investigation concerning the conduct and comments of presenter Sam Newman during two separate broadcasts of the *AFL Footy Show* in early 2008 by General Television Corporation Pty Ltd, the licensee of GTV. The ACMA found that the licensee had breached the relevant code provision.

During the broadcast, presenter Sam Newman made use of a female mannequin dressed in lingerie which was designed to represent a well-known female sports journalist. Mr Newman stapled a photograph of the journalist's face to the mannequin's head, and proceeded to dress the mannequin in a variety of outfits while simultaneously making comments about the journalist's appearance.

The ACMA found that a combination of cues together with the presenter's general demeanour amounted to severe ridicule of the journalist on the grounds of gender. The ACMA was also satisfied that the broadcast was not said or done reasonably and in good faith in the broadcast of an artistic work including comedy or satire, pursuant to the exception at clause 1.9.1 of the code.

Actions taken by the broadcaster immediately following the complaints included:

- > the broadcast of an apology on both *Footy Classifieds* and the *AFL Footy Show*
- > an apology to the journalist concerned
- > the removal of Sam Newman from the program for several episodes in order to undergo professional anti-discrimination training run by external lawyers for Nine
- > detailed code training relating to the requirements to provide substantive responses to complaints
- > the broadcast of a subsequent apology on National Nine News prior to Sam Newman's return to the *AFL Footy Show*.

The ACMA also asked Nine to inform it of any complaints it receives about the *AFL Footy Show* or Sam Newman for a period of six months.

Program classification

***Underbelly* and Gordon Ramsay investigations and enforcement action**

In February 2009, the ACMA announced that it had accepted enforceable undertakings under section 205W of the BSA from both the Nine Network and WIN Corporation about actions licensees would take to ensure that *Underbelly* and the range of programs featuring the chef Gordon Ramsay would be correctly classified. This was the first time the ACMA had accepted enforceable undertakings from commercial television licensees relating to matters covered by a code of practice.

The undertakings included requirements to put in place more rigorous classification procedures and additional training and reporting processes.

Acceptance of the undertakings followed the ACMA's 2008 findings that five episodes of *Ramsay's Kitchen Nightmares* and three episodes of *Underbelly* were incorrectly classified M (Mature), rather than the more restrictive MA (Mature Audience).

The five *Ramsay's Kitchen Nightmares* programs contained frequent coarse language which was not particularly important to the programs' story lines.

The ACMA found that the three *Underbelly* programs contained depictions of implied or simulated sexual behaviour that were not restrained because of their duration and the amount of detail they contained. One *Underbelly* program also contained very aggressive coarse language.

The ACMA therefore concluded that all the programs should have been classified MA and broadcast in the later MA time zone (9.00 pm to 5.00 am).

As of 30 June 2009, the ACMA had found no breaches of the code in relation to the classification of these programs.

Cathouse and related investigations

In March 2009, the ACMA determined that Austar's broadcast of two episodes of *Cathouse*, a reality television program set in a legal US brothel, breached the classification provisions of the subscription broadcasting code of practice by broadcasting material containing sex and nudity that cannot be accommodated at the MA15+ classification.

In May 2009, the ACMA determined that Foxtel breached the subscription broadcasting and narrowcasting codes of practice by incorrectly classifying two episodes of *The Wonderful World of Sex* and single episodes of *Cathouse* and *Naked Wild On*. The programs, which were classified MA15+, contained depictions of sexual activity and frequent and detailed depictions of nudity with an impact higher than strong which cannot be accommodated in an MA15+ program. The failure of classification procedures at Austar and Foxtel has resulted in material that should not have been broadcast on Australian television (or should have been subject restricted access protections) being shown. The ACMA expects to finalise remedial action against the licensees in the first half of the 2009–10 financial year.

Online content complaints

The ACMA received 1,182 complaints about online content in the period 1 July 2008 to 30 June 2009, compared with 1,122 complaints received in the previous year. A complaint may contain multiple items, with an 'item' referring to an individual article of content such as a link or a web page.

Overall, complaints tended to be more complex or contained a number of items to be investigated. Consequently, the ACMA did not deal with all complaints within the applicable timeframe. During the year, additional staff were recruited to address this issue and outstanding complaints were dealt with more promptly.

Ninety-nine of the complaints received during the year were invalid as they did not contain information required by the BSA.

The ACMA finalised investigations into 2,281 items of online content during the reporting period, compared with 1,488 items of online content in the previous year. This is an increase of 53 per cent.

Of the investigations completed, 1,363 items of prohibited or potential content were identified (see Table 26, page 78).

A total of 142 investigations were terminated because the ACMA was unable to obtain sufficient information on which to base a decision, usually because the content identified by the complaint could not be located.

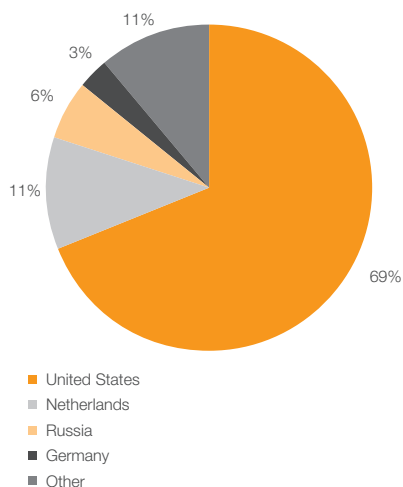
The introduction of Schedule 7 to the BSA in 2007–08 established new mechanisms for dealing with complaints about live content services and Australian-hosted links to prohibited content. During the current reporting period, final 'take-down' notices were issued for five items of Australian-hosted prohibited content and final link-deletion notices were issued for two links hosted in Australia that provided links to prohibited content. No service-cessation notices were issued in relation to live content services provided from Australia. A total of 1,356 overseas-hosted prohibited or potentially prohibited items of internet content were referred to the makers of internet software filters under Schedule 5 to the BSA and the registered ISP code of practice for dealing with such material.

Under the BSA, prohibited content is defined with reference to National Classification Code categories set out in the *Classification (Publications, Films and Computer Games) Act 1995*. Approximately 79 per cent of items that were prohibited or potentially prohibited were, or were likely to be, refused classification. This included 68 per cent of items which constituted an exploitative or offensive depiction or description of a child, or were otherwise concerned with paedophilic activity.

Table 26 shows the breakdown by content type of items actioned as a result of completed investigations in which prohibited or potentially prohibited content was located.

The previous reporting period identified the United States as accounting for the majority of prohibited or potentially prohibited content hosted outside Australia. As shown in Figure 7, the United States continued to account for the majority of prohibited online content provided from outside Australia.

Figure 7: Prohibited or potentially prohibited internet content by host location, 2008–09



Interactive gambling

The *Interactive Gambling Act 2001* (the Interactive Gambling Act) makes it an offence to provide certain types of gambling services to Australians and to advertise such services in Australia. Under the Act, the ACMA is responsible for investigating complaints about alleged prohibited interactive gambling content and for registering industry codes of practice dealing with interactive gambling matters.

Table 26: Prohibited/potentially prohibited internet content 2008–09, items actioned

Actual or likely classification and description of online content	Online content hosted in or provided from Australia (take-down, service-cessation or link-deletion notice issued)	Internet content items hosted overseas (referred to makers of filters)	Total
MA 15+ – Violence	0	0	0
MA 15+ – Sex	0	0	0
MA 15+ – Themes	0	0	0
MA 15+ – Drug Use	0	0	0
MA 15+ – Nudity	0	0	0
MA 15+ – Language	0	0	0
R 18+ – Violence	0	4	4
R 18+ – Sex	0	17	17
R 18+ – Themes	3	14	17
R 18+ – Drug Use	0	0	0
R 18+ – Nudity	1	18	19
R 18+ – Language	0	0	0
X 18+ – Actual sexual activity	1	228	229
RC – Crime – promotion/instruction	0	3	3
RC – Violence – depiction	0	2	2
RC – Paedophilia – promotion/instruction	0	7	7
RC – Child – depiction	2	921	923
RC – Bestiality – depiction	0	13	13
RC – Sexual violence – depiction	0	36	36
RC – Sexual fetish – depiction	0	64	64
RC – Sexual fantasy – depiction	0	28	28
RC – Drug use – promotion/instruction	0	0	0
RC – Terrorist related material	0	0	0
RC – Publication	0	1	1
Cat 1 – Publication	0	0	0
Cat 2 – Publication	0	0	0
Totals	7	1,356	1,363

Part 3 of the Interactive Gambling Act establishes a complaints system for prohibited internet gambling content. In 2008–09, the ACMA received 11 valid complaints under the Act. Of these complaints, three investigations resulted in the location of prohibited internet content. Each of the services identified was located outside Australia and the makers of filter software were notified in accordance with the code of practice registered under the Act.

National interest issues

Agencies involved in the national security of Australia, law enforcement and emergency services have special operational requirements in their interaction with the services of the telecommunications industry.

Law enforcement liaison

In the past, ACMA's Law Enforcement Advisory Committee (LEAC) advised the ACMA on telecommunications issues relating to criminal law enforcement and measures to enhance and improve national security. It also provided a forum for law enforcement and national security agencies and carriers to meet, discuss and resolve issues of common interest.

As part of a general review of its stakeholder engagement processes, the ACMA conducted a review of LEAC, in close consultation with the Attorney-General's Department and the Department of Broadband, Communications and the Digital Economy and with extensive input from LEAC members.

Following the review, the Authority decided that it was more appropriate that LEAC be transformed from an advisory committee to the ACMA into a broader forum that deals with communications law enforcement regulatory and operational matters called the Communications Security and Enforcement Roundtable (CSER). The CSER operates as a clearing house for issues and is an open forum for its members to share information and progress regulatory and operational issues about law enforcement. When required, it also functions as a mechanism for giving advice to the ACMA.

To complement the CSER and for other discrete reasons, a separate and smaller strategic policy group (the Experts Group) has been established by the Attorney-General's Department and the Department of Broadband, Communications and the Digital Economy, with the ACMA as a member.

LEAC was formally dissolved by way of legislative instrument on 28 October 2008.

The ACMA convened LEAC once and CSER once during the reporting period. The membership of CSER is listed in Appendix 2.

Identity checking requirements for pre-paid mobile phone services

During 2008–09, the ACMA worked with industry stakeholders to implement a package of previously approved measures that focused on improving the outcomes of the existing regulatory regime for the collection of information about pre-paid mobile phone users. An important core element of this work was implementing a compliance program to test how CSPs are complying with their regulatory obligations.

The ACMA completed an initial field audit under the compliance program during July and August 2008. Following consideration of the results of the audit, and information provided by industry, the ACMA formally warned four of the five largest providers of pre-paid mobile phone services for not complying with their regulatory obligations.

A second and larger field audit was undertaken in the period April–June 2009 and the results are being reviewed. Consideration will be given in the next reporting period as to whether any further action, including enforcement action, may be appropriate.

Disclosure of customer information to law enforcement and national security agencies

Customer information provided to telecommunications carriers and carriage service providers (CSPs) is protected under Part 13 of the Telecommunications Act. Carriers and CSPs are prohibited from disclosing that information to other parties except in certain limited and restricted circumstances. Those circumstances generally relate to:

- > assisting in investigations by law enforcement or national security agencies, the ACMA, the ACCC or the TIO
- > where there is an imminent threat to a person's life or health
- > satisfying the business needs of other carriers and CSPs.

The ACMA is required under clause 57(2)(f) of the *ACMA Act 2005* to include in its annual report information on disclosures of customer information made during the reporting year. The number and type of disclosures made during 2008–09, as reported to the ACMA under section 308 of the Telecommunications Act, are provided at Appendix 12.

In March 2009, Part 13 of the Telecommunications Act was amended to allow information contained in the Integrated Public Number Database (IPND) to be disclosed for the development and implementation of telephone based emergency warning systems by the states and territories. Interim access to the IPND was provided under Regulations in February 2009. No disclosures relating to telephone based emergency warning systems were made during 2008–09.

Interception capability plan compliance

Under section 196 of the *Telecommunications (Interception and Access) Act 1979* (TIA Act), carriers and nominated CSPs must lodge an interception capability plan by 1 July each year with the Communications Access Co-ordinator in the Attorney-General's Department. The ACMA's role is to enforce this obligation, should the need arise. Compliance with this obligation was satisfactory in 2008–09, although several carriers submitted their plans after the due date.

During the reporting period, the Attorney-General's Department referred eight carriers and nominated CSPs to the ACMA for enforcement action. Of these, five have subsequently complied with their obligations and two have surrendered their carrier licences. The ACMA is continuing to pursue one carrier in relation to its obligations to lodge an interception plan.

Emergency call service

The emergency call service is a national operator-assisted service that connects emergency callers free-of-charge to state and territory emergency service organisations—police, fire and ambulance. The service is designated for emergencies that are life-threatening or time-critical.

The primary emergency call service number is Triple Zero (000), which can be accessed from any fixed-line or mobile phone. In addition, there are two secondary emergency call service numbers in operation—112, which can be accessed from GSM mobile phones and 106 for text-based emergency calls from people who are deaf or have a hearing or speech impairment.

Telstra is the emergency call person (ECP) for the Triple Zero (000) and 112 emergency call service, while Australian Communication Exchange Ltd is the emergency call person for the 106 emergency call service.

The ACMA's regulatory role in relation to the emergency call service arises under a broader policy, legal and institutional framework set by the government. That framework has the following elements:

- > Telstra is the designated emergency call person (ECP) for 000 and 112.
- > Telstra takes calls via all carriage service providers (CSPs), and transfers them to relevant emergency service organisations (ESOs) in each state and territory.
- > When it transfers the calls, it takes the location information stored in the Integrated Public Number Database (IPND) associated with the number (in the case of fixed line services) or asks the person where they are (for nomadic services such as mobiles).

ACMA places obligations on carriers, CSPs and the ECP to ensure that customers can access the emergency call service. ACMA is also responsible for authorising access to the IPND.

The ACMA does not have responsibilities in regard to the roles and responsibilities of the ESOs once a call has reached them. This is a matter for state and territory governments. ACMA works cooperatively with the ECPs and ESOs on addressing issues that are within its remit.

Overarching policy responsibility for the Commonwealth's emergency management response resides with the Attorney-General's Department.

Emergency Call Service Advisory Committee

As part of its role in regulating and monitoring the emergency call service, the ACMA convenes the Emergency Call Service Advisory Committee (ECSAC) to provide a forum for representatives of the telecommunications industry, emergency call persons and emergency service organisations to discuss priority issues affecting the operation of the service and provide advice to the ACMA.

ECSAC met twice in 2008–09 and has progressed issues relating to:

- > public awareness campaigns for Triple Zero (000)
 - > the ACMA's review of the Emergency Call Service Determination
 - > VoIP Out Only services and the emergency call service
 - > the development of initiatives to reduce the number of non-genuine calls made to Triple Zero
 - > industry's management of potential denial of service attacks against the emergency call service
 - > the development of possible solutions to address the incompatibility of TTY textphones with IP-based digital networks
 - > the effect of new communications technologies on the emergency call service
 - > the development of initiatives designed to improve the efficiency of the service.
- ECSAC membership is listed in Appendix 2.

Triple Zero (000) public awareness campaign

Since mid-2008, an ECSAC working group has been active in developing initiatives aimed at improving the community's awareness of Australia's national emergency number.

At the 2008 Safer Communities Awards, the ACMA was presented with a certificate of High Commendation by the Commonwealth Attorney-General for its collaborative work with emergency service organisations and telecommunications carriers in promoting awareness of Triple Zero (000). Sponsored by Emergency Management Australia within the Attorney-General's Department, the Australian Safer Communities Award recognises people and organisations for best practice and innovation in emergency management.

Reducing the volume of non-emergency calls

In 2008–09, a total of 10.3 million calls were made to the emergency call service. Around half the calls (5.4 million) made to the service did not relate to a genuine emergency. Non-genuine calls arise in many ways, such as from misdials, automatically generated calls from incorrectly programmed fax machines or modems, callers reporting matters that are not emergencies, and hoax and malicious calls.

Non-genuine calls to the emergency call service from mobile handsets without a subscriber identity module (SIM) have been a major concern for many years. For technical reasons identified by industry, blocking these calls and removing the obligation on mobile phone carriers to carry them is not a viable option at this stage. Consequently, the proposed education program associated with this initiative could not proceed as planned for the first half of the financial year.

In 2008–09, the ACMA, in conjunction with industry, considered alternative measures to reduce the number of non-genuine calls to the emergency call service. Following the ACMA endorsement of an industry-developed package of measures, Telstra introduced a short recorded voice announcement for the Triple Zero (000) service on 19 December 2008. The recorded voice announcement gives people who have accidentally dialled Triple Zero (000) the opportunity to hang up before being connected to an operator, freeing-up the service to better handle genuine calls. Since its introduction, the number of calls to Triple Zero (000) reaching the ECP has reduced by approximately 20 per cent, without any complaints of genuine calls being dissuaded.

The package also included implementation by industry of an escalating warning process which ultimately leads to mobile handsets, from which high levels of repeated non-genuine calls are made, being blocked from making calls. The process commenced in June 2009 with the first warnings expected to be provided early in the next reporting period. The warnings are triggered if certain call thresholds are reached. The handset-blocking process will be reviewed in the next reporting period, based on an analysis of the first few months of data.

The ACMA is also considering whether to place new regulatory requirements on mobile carriers and the ECP for Triple Zero (000) and 112 to take steps to minimise the number of non-genuine calls to the emergency call service from mobile phones (see Review of the ECS Determination).

Review of the ECS Determination

Under Part 8 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*, the ACMA is responsible for administering the legislation underpinning the provision of the emergency call service. This involves monitoring the performance of the service and facilitating developments that assist in its efficient operation. The ACMA's primary regulatory instrument, made under Part 8, is the *Telecommunications (Emergency Call Service) Determination 2002* (ECS Determination).

The release of the discussion paper *Calling the Emergency Call Service—Review of Arrangements* in April 2008 initiated a broad review of the ECS Determination. The ECS Determination sets out specific requirements on industry participants in making, handling and transferring emergency calls.

Twenty-three submissions were received from industry and consumer advocacy groups. The responses to the ACMA's review garnered a wide range of opinions and suggestions about the operation of Australia's ECS. In addition, the ACMA has also consulted with its ECSAC throughout the review process.

Following the review, in June 2009, the ACMA released for public comment a re-drafted ECS Determination, addressing the needs of the community and the demands of new technologies.

Key changes in the proposed Determination include:

- > new obligations on VoIP Out Only providers to either provide access to the emergency call service or clearly and prominently inform potential customers if emergency call service access is not available
- > new obligations for the providers of mobile services to provide specific customer data. The purpose of these provisions is to assist emergency service organisations as much as possible in responding to an emergency call from a mobile service
- > new requirements on carriers and Telstra in its capacity as the emergency call person for Triple Zero (000) and 112 to take steps to minimise the number of non-genuine calls to the emergency call service from mobile phones.

The ACMA expects to finalise the new Determination by the end of 2009.

Spectrum for government agencies

An important part of its review of spectrum management arrangements in the 400 MHz band (see *Review of the 400 MHz band*, page 32), the ACMA is working closely with governments and national security, law enforcement and emergency service agencies to address the requirements of these agencies in the band. Importantly, this review provides the opportunity to progress the identification of harmonised spectrum to facilitate radiocommunications interoperability of these government agencies.

Integrated Public Number Database

As noted above, the IPND contains information about the subscriber for each public number in Australia, including both fixed and mobile services. While the quality of address data in the IPND has improved significantly since the first audit was conducted in 2004, the ACMA continued to work with data providers during 2008–09 to ensure they have plans in place to make further corrections and implement system improvements where necessary. The next audit is scheduled for November 2009.

Compliance with the Telecommunications Act

In November 2008, the ACMA commenced an investigation into whether a carriage service provider (CSP) had met the obligation to provide the Integrated Public Number Database (IPND) Manager with the information it reasonably requires to provide and maintain the IPND.

The investigation centres on the customer information provided to the IPND Manager in association with a post-paid mobile service which was used to make several calls to Triple Zero in October 2008.

The ACMA's investigation is continuing.

e-Security

The Australian Internet Security Initiative (AISI) derives from the government's E-Security National Agenda (ESNA). ESNA has three key priorities:

1. Reducing the e-security risk to Australian Government information and communications systems.
2. Reducing the e-security risk to Australia's national critical infrastructure.
3. Enhancing the protection of home users and SMEs from electronic attacks and fraud.

In May 2007, the government allocated funding of \$73.6 million over four years to address these three priorities, of which the AISI received \$5.2 million. Although the AISI is most relevant to priority 3, it also has relevance to priority 2, as it helps reduce the capacity for attacks on Australia's internet infrastructure by reducing the number of infected computers on the Australian internet.

The AISI, developed and managed by the ACMA, is a key tool to help address the e-security threat posed by 'botnets'—networks of computers that have become compromised through the surreptitious installation of malicious software (malware). This malware enables the computer to be controlled remotely for illegal and harmful activities, including the dissemination of spam, hosting of 'phishing' sites and distributed denial of service attacks on internet infrastructure.

Under the AISI program, the ACMA provides information to participating Australian ISPs about 'compromised' computers residing on their networks. The ISPs then contact their customers to inform them that their computers are compromised and assist them in restoring correct operation.

During 2008–09, the ACMA:

- > Diversified and expanded the data on compromised computers feeding into the AISI, thereby increasing the number of compromises from an average of 3,060 per day at the end of the 2007–08 financial year to an average of 10,000 per day at the end of the 2008–09 financial year.
- > Collaborated with members of the Conficker Working Group to provide ISPs with data on computers infected with the Conficker virus. The result was a significant spike in the number of compromises reported by the AISI in April 2009.
- > Commenced the in-house development of the Reporting Spam system which will allow for improved forensic examination of spam emails and better integration of this data into the AISI.
- > Increased the number of ISP participants by approximately 73 per cent, with 37 ISPs participating at 30 June 2008 and 64 ISPs participating at 30 June 2009. It is estimated that these 64 ISPs account for over 90 per cent of Australian home internet users.

The high level of compromise reports per day made through the AISI underscores the need for internet users to be vigilant in maintaining the e-security of their computers and not engaging in practices—such as visiting 'suspect' websites—that cause their computers to become infected. The value of the AISI has been recognised internationally, with the International Telecommunication Union developing a 'Botnet Mitigation Toolkit', which it states is 'inspired' by the AISI. The solution to the botnet problem will require a coordinated international approach, as botnets are made up of computers located in multiple countries. The ACMA will continue to actively promote international cooperation in this area during 2009–10.

International matters

The current international communications and media environment is evolving at a rapid rate. This is particularly the case in the move to next generation networks (NGN) and converging services. During the reporting period, the ACMA continued to pursue a dedicated international engagement strategy to complement its overall strategic direction. Improving the ACMA's ability to influence regulatory outcomes is a key objective of the international engagement strategy. The ACMA engages internationally to:

- > meet its strategic objectives and legislative requirements where these require international activity, including the areas of online content, spam, e-security, cybersafety, radiocommunications and telecommunications
- > support Australia's domestic needs and whole-of-government objectives; including trade, international competitiveness and regulatory capacity
- > support external positioning objectives; which assist the ACMA to continue to be a credible source of advice to government and industry on international matters.

Major international engagement activities undertaken by the ACMA in the reporting period include:

1. Representing Australia at the International Telecommunication Union (ITU), including participation in both strategic and technical forums in cooperation with the Department of Broadband, Communications and the Digital Economy (DBCDE).
2. Establishing and maintaining strategic relationships with relevant international stakeholders; both through the development of formal memoranda of understanding, bilateral meetings and discussions at a senior management level.
3. Hosting delegations and visitors from relevant overseas stakeholders, both to share information about Australia's communications and media environment, and to learn about potential regulatory better practice.
4. Undertaking capacity building, education and development activities for representatives of national regulatory agencies in the Asia-Pacific region.

Part of the ACMA's engagement strategy involves the development of relationships with fellow regulators, together with strengthening bilateral relationships with regional authorities and standards development bodies. In 2008–09, the ACMA signed a Memorandum of Understanding with the New Zealand Department of Internal Affairs (see page 71) and commenced negotiations to establish a Memorandum of Understanding with the United Kingdom's communications and media regulator OfCom the Republic of Korea Communications Standards Commission, and Ireland's Commission for Communications Regulation.

The ACMA continued its involvement in the Asia-Pacific Telecommunity (APT) - the peak regional ICT body which coordinates the views of member countries on telecommunications and radiocommunications, and represents them more widely at an international level; particularly to the ITU. In 2008–09, the ACMA participated in an APT Standardization Program meeting and APT preparatory meetings for the World Telecommunications Standardization Assembly (WTSA), provided speakers at an APT and ITU regional meetings, and hosted many visits from representatives of regulatory agencies from countries in the region.

Hosting delegations from overseas stakeholders

The ACMA manages a number of overseas visits to Australia from representatives of other communications regulators, government and non government organisations. These visits facilitate collaboration and information exchange on communications policy and regulation issues. During 2008–09, the ACMA hosted international visitors from countries including Thailand, Japan, Papua New Guinea, Fiji, Hong Kong and the United Kingdom. Topics discussed include high definition television broadcasting in Australia, spectrum management, apparatus licensing, anti-siphoning, electromagnetic compatibility (EMC) procedures and technical standards.

In addition, the ACMA hosted two staff from Singapore's Media Development Authority (MDA) on placements of approximately one month to learn about the ACMA's approach to regulating digital content.

Undertaking capacity building and education and development activities in the Asia-Pacific region

In consultation with the DBCDE, the ACMA provides technical expertise and regulatory input to the achievement of broader government objectives. During 2008–09, the ACMA commenced planning for delivery of an International Training Program in November–December 2009. The objective of the program is to assist developing economies through exposure to the ACMA's experience in managing its regulatory responsibilities.

International Telecommunication Union

The ITU is the specialised agency of the United Nations responsible for the regulation, standardisation and development of telecommunications and international management of the radiofrequency spectrum and satellite orbits. The ACMA's particular interests lie with the ITU's Telecommunication Standardization (ITU-T) and Radiocommunication (ITU-R) sectors. The ACMA's engagement with ITU-R is outlined on page 31.

The ACMA manages Australian input into the setting of international standards for telecommunications, except where Standards Australia is responsible. The ACMA's ITU-T objectives are to support the timely development of global open standards, facilitate trade and to encourage practices that allow the ITU-T to be agile and responsive to developments in telecommunications and ICT.

In practice, the ACMA's responsibilities focus on Australian input into the ITU-T at three levels:

- > the administrative level by participation in the ITU Plenipotentiary Conference (ITU PP), the ITU WTSA and the Telecommunications Standards Advisory Group (TSAG)
- > the technical or working group level by participation in specified and targeted Study Groups (such as Study Group 2 which relates specifically to issues such as service definition, numbering, routing, emergency services and telecommunications management)
- > through relevant regional bodies including the APT, Commonwealth ITU Group (CIG) for ITU preparatory meetings, and APEC-TEL.

World Telecommunication Standardization Assembly

A major international engagement activity for the ACMA in 2008–09 was leading the Australian delegation at the 2008 ITU World Telecommunication Standardization Assembly (WTSA-08), held in Johannesburg, South Africa from 20–30 October 2008.

The WTSA is the governance and decision making body of the ITU-T and it meets every four years. The WTSA manages and defines general policy for the ITU-T, determines the structure and the leadership of the ITU-T Study Groups and decides on the work to be undertaken (called Questions to be examined) by the Study Groups. Study Group activity is the core work of the ITU-T and leads to the Recommendations that underpin global standardization of telecommunication networks and services.

During 2008–09, the ACMA participated in APT preparatory meetings for WTSA-08 and held leadership roles through convenorship and co-convenorship of two APT Correspondence Groups. Australia's position and focus during the WTSA-08 preparatory work was guided by a comprehensive national stakeholder process, led by the ACMA, involving participants from the communications industry, consumer groups and relevant federal government departments.

Australia, through engagement with the Asia Pacific region via the APT, achieved considerable success at WTSA-08 with twenty-nine APT proposals presented to WTSA-08 and twenty-eight accepted as proposed or with slight modification.

INHOPE

The ACMA is a member of the International Association of Internet Hotlines (INHOPE). INHOPE member hotlines deal with complaints about illegal internet content, mainly child abuse material. The association is partly funded by the European Commission under the hotline component of its Safer Internet Plus program.

During 2008, the ACMA collaborated with fellow INHOPE member, the Irish Internet Hotline, to disable a network of websites that provided access to child sexual abuse material. Acting on an anonymous complaint from a member of the Irish public, the Irish Internet Hotline referred the details to ACMA, which in consultation with the Australian Federal Police, made contact with the Australian domain name registrar Melbourne IT. Melbourne IT determined that the sites breached its terms and conditions of domain name registration and quickly took action to prevent the domain names in question from directing to the offending sites.

The ACMA was represented at the INHOPE members' meetings held in Lisbon from 22 to 24 October 2008, and Luxembourg from 12 to 14 May 2009. Members' meetings provide a valuable forum for exchanging information and expertise on investigation techniques, hotline promotion, staff welfare and other hotline management issues.

An ACMA representative also attended an advanced technical training workshop for hotline investigators in Prague on 23 and 24 June 2009. The course was delivered by technical experts from the United Kingdom Internet Watch Foundation and the United States National Centre for Missing and Exploited Children, and included instruction in the tools and techniques required to accurately identify and locate the hosts of online content.

Chapter 3

Content regulation and consumer information

An abstract graphic consisting of numerous thin, light-colored lines that curve and flow across the page, creating a sense of movement and depth. The lines are more concentrated in the upper right and lower right areas, with some lines extending from the left side towards the center.

Chapter 3 reflects the ACMA's key result areas related to consumer and audience safeguards and standards, and community and national safeguards. The ACMA's responses to the performance information set out below for Outcome 2 can be found throughout the chapter.

Outcome 2:

The ACMA will contribute to meeting the communications products and services needs of the Australian community by enabling an effective information, standards and safeguards regime

Output Group 2.1: Ensuring the provision of community standards and safeguards which reflect broad community expectations	
Key Performance Indicators	2008–09 Target
Online content, telemarketing, anti-spam and broadcasting code complaints dealt with within applicable timeframes.	<p>Online content—80 per cent of cybersafety online content based complaints completed within 14 days.</p> <p>Telemarketing—50 per cent of complaints closed within seven days, 75 per cent within 14 days, 90 per cent within 21 days from receipt.</p> <p>Broadcasting code complaints investigations completed within six months.</p> <p>Anti-spam—90 per cent of spam-based complaints and enquiries actioned within eight days.</p>
Consultation undertaken to provide information and advice regarding communications service matters affecting consumers.	ACMA Consumer Consultative Forum (CCF) convened twice annually.
Industry performance reports made available on the Customer Service Guarantee, Network Reliability Framework, and Universal Service Obligation.	<p>Quarterly data is reported on time, and to a high quality.</p> <p>Annual performance report is released on time, and to a high quality.</p>
Output Group 2.2: Facilitating sufficient community information to enable informed decisions about communications products and services	
Key Performance Indicators	2008–09 Target
Information programs delivered in order to raise awareness of rights, obligations and safety issues.	<p>Education program in relation to emergency service numbers completed by 31 December 2008.</p> <p>Education program in relation to the Do Not Call Register (DNCR) completed by 30 June 2009.</p> <p>Contribution to inter-agency scam prevention project in February–March 2009.</p> <p>Completion of a cybersafety school kit and parents' kit by first quarter of 2009, to underpin the cybersafety education program.</p> <p>Regular presentations facilitating awareness of customer cabling compliance and regulatory regimes.</p> <p>Regular presentations to industry groups facilitating awareness of customer equipment regulation and compliance.</p>

The ACMA's regulatory role

The ACMA's role includes informing the community about communications matters and delivering effective consumer protection. To this end, the ACMA provides information to facilitate informed decisions about communications products and services. Industry-developed codes of practice set out the requirements to meet service and information provision obligations.

Content regulation

The ACMA regulates content delivered by radio, television, the internet, fixed-line telephones and mobile phones.

Australian content

The ACMA monitors commercial television broadcasting licensees' compliance with the Broadcasting Services (Australian Content) Standard 2005 (Australian Content Standard) using its Australian content database. This database contains information provided by the three commercial television networks—Seven, Nine and Ten—under a self-reporting system about the programs broadcast by their metropolitan services. The ACMA also collects compliance information from regional commercial television licensees, including network affiliates and independent broadcasters.

The Australian Content Standard requires all commercial television licensees to broadcast an annual minimum transmission quota of at least 55 per cent Australian programming between 6.00 am and midnight, including first-release and repeat programs. In addition, there are specific minimum annual sub-quotas for first-release Australian drama, documentary and children's programs, as well as sub-quota requirements for repeat children's programs and Australian preschool programs.

The annual quota requirements for first-release Australian programs are:

- > drama—250 points, with 860 points for the three-year period 2008–10. The point system is calculated on the program duration x format factor, which reflects the relative costs and risks associated with the production of particular drama genres
- > documentary—20 hours
- > children's (C) programs—130 hours, including 25 hours of C drama programs each year and 96 hours of C drama programs for the three-year period 2006–08.

In 2008, all commercial television broadcasting licensees met the Australian content requirements.

During the three-year period 2006–08, all commercial television broadcasting licensees met the 96 hour triennial quota requirement for first release Australian C drama.

Australian content in advertising

Television Program Standard 23 – Australian Content in Advertising (the Australian Content in Advertising Standard) requires that at least 80 per cent of advertising broadcast each year by commercial television broadcasting licensees between 6.00 am and midnight comprises Australian-produced advertisements.

The three commercial television networks report to the ACMA annually on the amount of Australian advertising they broadcast. In addition, the Commercials Advice Pty Ltd (CAD), wholly owned by Free TV Australia, provides the ACMA with the numbers of advertisements it has classified as Australian or foreign. While the Australian Content in Advertising Standard regulates advertisements actually broadcast, the ACMA uses the CAD information to monitor trends in Australian and foreign content in advertising.

In 2008, the amount of Australian advertising broadcast by the metropolitan networks averaged significantly more than 80 per cent:

- > the Seven licensees averaged 86.9 per cent (86.3 per cent in 2007)
- > the Nine licensees averaged 92 per cent (92.5 per cent in 2007)
- > the Ten licensees averaged 84.9 per cent (85.6 per cent in 2007).

Children's television

Compliance with the Children's Television Standards 2005 (CTS) is a licence condition for all commercial television broadcasting licensees. The CTS currently require these licensees to broadcast a combined total of at least 390 hours of children's (C) and preschool (P) programs each year, with a minimum of 260 hours of C-classified and 130 hours of P-classified programs annually. These are the C and P quotas. The Broadcasting Services (Australian Content) Standard 2005 requires that 50 per cent of the C quota must be first-release Australian programs and that all P programs are Australian programs.

For programs to count towards these quotas, they must meet certain provisions outlined in the CTS, including the requirement for the programs to be classified by the ACMA before being broadcast and the requirement for programs to be shown within specified time bands. The ACMA monitors compliance with the CTS through its Australian content database and the self-reporting notification regime under which commercial television broadcast licensees currently report to the ACMA.

In 2008, all of the licensees met the minimum quota requirements for children's programming.

The ACMA continued its review of the CTS in 2008–09. The draft CTS 2008 was released for public comment in August 2008 and the ACMA received 53 submissions. The ACMA anticipates that the review will be finalised, and the new CTS will be published, in early 2009–10.

Children's and pre-school programs

During 2008–09, the ACMA assessed 54 children's and preschool programs or series of programs, granting classification to 53 of them. This compares with 60 programs assessed and 59 granted classification in 2007–08 (see Table 27).

Of these program classifications, 96 per cent were completed within 60 days of receipt by the ACMA of a completed application.

At 30 June 2009, there were 11 applications for C or P classification awaiting finalisation.

A list of children's television consultants and programs granted C or P classification is in Appendix 6.

High definition broadcasting

Schedule 4 of the Broadcasting Services Act provides for the conversion over time of the transmission of television broadcasting services from analog to digital mode. At the end of the 'simulcast period' (defined in the Broadcasting Services Act), analog transmissions are to cease. See also *Digital television under Regulatory environment* in Chapter 2.

Part 4 of Schedule 4 of the Broadcasting Services Act provides for broadcasters to meet high definition television (HDTV) quota standards. Each commercial or national television broadcasting service in a mainland metropolitan area is required to transmit a quota of 1,040 hours of HDTV programming per calendar year. The HDTV obligations also apply to a number of broadcasters in non-remote areas and will eventually apply to all commercial and national television broadcasters across Australia. The ABC and SBS are permitted to 'up-convert' their analog or standard definition television (SDTV) programs to HDTV.

Table 27: Children's and preschool program classification

	2007–08		2008–09	
	Applications granted classification	Applications refused classification*	Applications granted classification	Applications refused classification*
Children's programs	10	0	10	1
Children's programs—drama	17	0	30	0
Provisional—children's	22	0	7	0
Provisional—preschool	2	0	1	0
Preschool programs	8	1	5	0
Total	59	1	53	1

* These programs failed to satisfy the criteria in the CTS

The *Broadcasting Legislation Amendment (Digital Television) Act 2006* amended the Broadcasting Services Act to remove a requirement that the HDTV programming of a commercial or national television broadcaster must be a simulcast of the SDTV service, effective from 1 January 2007. The amendments will also remove the existing HDTV quota from the end of the simulcast period. In effect, the changes allow television broadcasters in non-remote areas to provide one HDTV multi-channel. The programming provided on the HDTV multi-channel may also differ from that provided on the core service.

Broadcasters required to meet the HDTV quota must report compliance information to the ACMA twice a year. Interim reports must be given for the first six months of the calendar year, followed by consolidated reports for the full 12 months. Records must be kept for 18 months after the transmission was first reported to the ACMA.

In 2008, the commercial and national television broadcasters required to transmit the HDTV quota complied. The compliance results of national and commercial television broadcasters in the mainland metropolitan areas are given in Table 28.

Local content on regional television

Refer to Chapter 2 for discussion of local content on regional television.

Subscription television drama expenditure

The eligible drama expenditure scheme requires licensees and channel providers that provide subscription television drama services to spend at least 10 per cent of their annual total program expenditure on new eligible drama programs. If the 10 per cent expenditure requirement is not met in the current financial year, the shortfall amount must be made up the following year.

To be eligible, a drama program must be an Australian or New Zealand production or co-production, and must not have been televised in Australia or New Zealand on a broadcasting service at any time before the expenditure on the program is incurred. While the scheme imposes a spending obligation on licensees and channel providers for Australian and New Zealand programs, there is no broadcasting requirement.

The Broadcasting Services Act defines a subscription television drama service as a service devoted predominantly to drama programs, that is, more than 50 per cent of the programming consists of drama programs.

Each year, scheme participants are required to provide annual returns by 29 August. As a result, only 2007–08 information is available for this annual report.

In 2007–08, there were 18 subscription television drama channels for which reports relating to the scheme were received. Annual returns were also provided by seven licensees. All channel providers complied with the rules of the scheme, and four of the seven licensees complied. Three licensees failed to meet their obligation to arrange their eligible expenditure to acquit the 2006–07 expenditure shortfall.

Based on total spending on all programs, an expenditure obligation of \$23.10 million on new eligible drama programs was established for subscription television drama channel providers and licensees in 2007–08. The scheme requires that this expenditure obligation be acquitted either in the reporting year, or the following year only.

During the reporting period, a total of \$20.06 million was spent on new Australian and New Zealand drama productions or co-productions. Of that expenditure, \$10.47 million was nominated to acquit the expenditure shortfall from 2006–07, and \$9.16 million was nominated towards meeting the 10 per cent minimum expenditure requirement for 2007–08.

Licensees and channel providers must spend a minimum of \$13.94 million in 2008–09 to acquit the 2007–08 obligation.

Table 28: HDTV quota, 2008

Broadcaster	HDTV hours (range hhhh:mm)
ABC	8325
SBS	7887:51
Nine Network	2859:40 to 2917:28
Seven Network	2696:44 to 2765:54
Ten Network	2834:34 to 2887:59

Anti-siphoning provisions

The anti-siphoning provisions, contained in section 115 of the Broadcasting Services Act, empower the minister to specify events that should be available on free-to-air television (ABC, SBS, and Seven, Nine and Ten networks and affiliates) for viewing by the general public. The aim of the anti-siphoning provisions is to prevent listed events from being 'siphoned off' by subscription television to the detriment of free-to-air television viewers. Events the minister believes should be available free to the general public on free-to-air television are specified in what is known as the anti-siphoning list.

The most recent anti-siphoning list took effect on 1 January 2006 and expires on 31 December 2010. The list includes 30 sporting events across 12 sport categories including the Olympic and Commonwealth Games, horse racing, football, cricket, netball, tennis, golf and motor sports.

On 21 September 2005, the (then) minister directed the ACMA, with the Broadcasting Services (Anti-siphoning Monitoring) Direction (No. 1) 2005, to monitor the operation of the anti-siphoning list from 1 January 2006 to 31 December 2010, coinciding with the duration of the current anti-siphoning list. The direction required the ACMA to report to the minister at least every six months and continues to have effect.

The ACMA provided the (then) minister with five interim reports on its anti-siphoning monitoring investigation, covering events concluding in the period January 2006 to October 2006. All five of these reports have been published on the ACMA website.

The ACMA provided a 2006–07 annual report to the current Minister for Broadband, Communications and the Digital Economy in March 2008. This report covered events concluding in the period November 2006 to October 2007.

In August 2008, the minister revoked clause 2 of the direction that required the ACMA to monitor and report on the use of events on the anti-siphoning list. A final report (the *Anti-siphoning Monitoring Investigation 2008 Half Yearly Report*, covering the period November 2007 to March 2008) was provided to the minister in September 2008. The ACMA received a direction from the minister to publish this report, and it was published on the ACMA website in December 2008.

Anti-terrorism standards

The ACMA determined the Broadcasting Services (Anti-terrorism Requirements for Open Narrowcasting Television Services) Standard 2006 and the Broadcasting Services (Anti-terrorism Requirements for Subscription Narrowcasting Television Services) Standard 2006 (the Anti-terrorism Standards) on 16 March 2006. Compliance with the Anti-terrorism Standards is a condition of a subscription narrowcasting and open narrowcasting licence (paragraph 11(1)(b) of Schedule 2 of the Broadcasting Services Act). A breach of that condition is an offence under section 139(6) of the Broadcasting Services Act.

The decision to determine these standards followed an investigation into a satellite subscription narrowcasting service, Al Manar, which broadcast terrorist material into Australia from Lebanon. The standards address a significant community concern by aiming to prevent the broadcast of programs that directly attempt to recruit people, or solicit funds, for terrorist organisations. For further information on the Al Manar investigation, refer to the *Compliance investigations* section in Chapter 2.

During the reporting period, the ACMA amended the standards by revoking and replacing them with new standards in order to provide narrowcasters with greater certainty in determining which individuals and organisations are deemed terrorist entities. The standards commenced on 1 December 2008.

The ACMA also published guidelines to assist licensees in applying the Anti-terrorism Standards.

Mobile premium services

On 18 May 2009, the ACMA announced a new strategy for regulating mobile premium services. The ACMA's package of regulatory measures includes:

- > two service provider determinations to be made under the Telecommunications Act
- > registration of the Mobile Premium Services (MPS) Code developed with Communications Alliance
- > a rigorous monitoring program to be undertaken by the ACMA.

This package was developed following extensive consultation during 2008–09 with stakeholders including consumer representatives, the Australian Competition and Consumer Commission, and the Telecommunications Industry Ombudsman.

The ACMA registered the industry-developed MPS Code on 18 May 2009. The code comes into force on 1 July 2009 and is scheduled to be reviewed within 12 months of commencement. The code sets out detailed rules covering a range of important matters including procedures to be followed for subscribing to premium SMS services; the banning of advertisements targeted at children aged under 15; strict rules about how advertisements (and charges) are displayed; and improved complaints-handling obligations on companies supplying premium SMS services.

Service provider determinations planned for development during the next reporting period will:

- > provide consumers with additional protection measures, by requiring mobile carriers to provide consumers the option of barring premium SMS services on their mobile handsets
- > support the operation of a central register of content suppliers and aggregators established in connection with the MPS Code, by preventing mobile carriage service providers and aggregators from contracting with content suppliers and aggregators who have not supplied their details for inclusion on this register
- > increase incentives for compliance with the MPS Code by enabling the ACMA to order a carriage service provider to cease providing billing services to a content supplier or aggregator that is not complying with the MPS Code.

The ACMA also intends to undertake a rigorous monitoring and compliance programme of mobile premium services throughout 2009–10. This programme will identify potential breaches of the MPS Code, recurring and systemic problems with services and the companies that are responsible. Where breaches of the code are determined, the ACMA will take action to ensure compliance with the MPS Code.

Review of commercial radio standards

On 18 December 2008, the ACMA announced its decision to undertake a comprehensive review of the three commercial radio standards that were determined by the Australian Broadcasting Authority under subsection 125(1) of the *Broadcasting Services Act 1992* (the BSA) following the Commercial Radio ('Cash for Comment') Inquiry in 1999–2000. The standards are:

- > the Broadcasting Services (Commercial Radio Current Affairs Disclosure) Standard 2000
- > the Broadcasting Services (Commercial Radio Advertising) Standard 2000
- > the Broadcasting Services (Commercial Radio Compliance Program) Standard 2000.

During the reporting period, the ACMA undertook a program of research to establish an evidence base for the review. This includes research into community attitudes and comparative research on international approaches to regulation.

The review will consider the appropriateness, effectiveness and efficiency of current regulatory arrangements under the commercial radio standards, including the extent to which these achieve their current objects and are consistent with the objects and regulatory policy of the BSA. Specifically the review will consider:

1. Community attitudes, industry practice and the regulatory environment in relation to commercial arrangements that may affect the content of current affairs programs on commercial radio.
2. The extent to which the commercial radio standards have achieved their objects, and the experience and performance of the commercial radio sector in meeting current regulatory requirements.
3. The most effective regulatory response to the issues that emerge during the review, including alternative regulatory approaches.

Any other relevant matters that may arise through the review process will also be considered.

In undertaking the review, the ACMA will have regard to contemporary business models operating in the commercial radio sector, changes to the commercial radio industry and to the regulatory environment since the standards were introduced, and possible future developments associated with converging media, including the introduction of digital radio. Consideration will also be given to international approaches to similar issues. The ACMA will consult with commercial radio licensees, interested parties and the general public during the review.

Internet industry codes

The Internet Industry Spam Code of Practice was registered by the ACMA in March 2006 under section 117 of the Telecommunications Act. A review of the code commenced in 2007 and a revised code is expected to be submitted to the ACMA for registration in the second half of 2009.

The Australian eMarketing Code of Practice was registered by the ACMA in March 2005. Among other things, the code has been used to educate members of the e-marketing industry on appropriate practices to comply with the *Spam Act 2003*. The code is currently due for review.

Following commencement of a new Schedule 7 to the Broadcasting Services Act on 20 January 2008, the ACMA registered a new code of practice for content service providers on 10 July 2008. The code requires content likely to be MA15+ or above to be assessed and classified by trained content assessors, hired by providers of online and mobile content. It also includes best practice guidance for providers and hosts of content on how to manage and respond to customer complaints and contains information about online safety and the risks for consumers around the use of chat services. The code forms part of the regulatory framework for all content delivered on fixed and mobile platforms.

Reviews of codes of practice for Australian internet service providers, registered pursuant to Schedule 5 to the BSA, are expected to be completed during 2009–10.

Telecommunications industry codes

Telecommunications industry codes can be developed by industry bodies on any matter that relates to a telecommunications, e-marketing or telemarketing activity. Codes can be presented by industry bodies to ACMA for registration. If the ACMA is satisfied that the code meets the criteria stipulated in Part 6 of the Telecommunications Act, it is obliged to include the code on its register of industry codes and standards.

Telecommunications industry code development, review and registration activity during the reporting year is detailed below. The ACMA registered the Mobile Premium Services Code on 14 May 2009.

Consumer-related telecommunications code funding

Telecommunications industry bodies and associations can apply to the ACMA for reimbursement of the refundable costs they incur in developing consumer-related telecommunications industry codes. The reimbursement scheme is set out in Division 6A of Part 6 of the Telecommunications Act.

During 2008–09, the ACMA approved an application for reimbursement of \$251,882.00 of costs incurred by the Communications Alliance in developing the Mobile Premium Services Code.

Broadcasting industry codes and guidelines

Under section 123 of the *Broadcasting Services Act 1992* (Broadcasting Services Act), representative industry groups may develop codes of practice in consultation with the ACMA, taking into account any relevant research conducted by the ACMA. Once implemented, the ACMA monitors these codes and deals with unresolved complaints made under them.

The ACMA includes a code in the register of codes of practice only if it is satisfied that it provides appropriate community safeguards for the matters covered, if it was endorsed by a majority of providers of broadcasting services in that section of the industry, and if members of the public have been given an adequate opportunity to comment.

On 20 November 2008, the ACMA registered a revised version of the Commercial Television Industry Code of Practice amended at clause 5.5.11 to permit promotions for digital television that include references to 'Freeview' to be exempt from the time limits placed on non-program matter.

During the reporting period, Free TV Australia continued its broader review of the Commercial Television Industry Code of Practice. The ACMA met Free TV and the networks a number of times to discuss code-related issues. It is expected that a revised code will be released by Free TV Australia for public consultation in the next reporting period.

On 26 February 2009, the ACMA registered a new code developed by the Australian Subscription Television and Radio Association (ASTRA) for open narrowcast television. Compared with the previous code, the new Open Narrowcast Television Codes of Practice include broader grounds on which vilification will be prohibited, an updated definition of ‘closed captioning’ (clarifying the distinction between analog and digital reception equipment) and an updated reference to the classification guidelines for programming.

In consultation with the ACMA, codes of practice for commercial radio services are being reviewed by Commercial Radio Australia (CRA), the industry body representing Australian commercial radio broadcasters. The current *Codes of Practice & Guidelines* were registered by the ABA in September 2004. The ACMA has considered amended codes and in early 2009 the CRA conducted a public consultation. The ACMA has commissioned research into community attitudes to radio in order to assist in its consideration of the codes for registration. It is anticipated that the reviewed codes will be finalised for registration during the 2009–10 financial year.

Community broadcasting reviews

During the reporting period, the ACMA received 650 inquiries about community broadcasting matters including:

- > requirements for setting up a temporary or long-term community radio broadcasting service
- > the process for changing the transmission site or increasing the transmission power for a community broadcasting service
- > whether the ACMA is allocating community licences for the digital transmission of community radio or community television services
- > the procedure for making a complaint that a community station is not complying with a licence condition or a code of practice.

During the reporting period, the ACMA also reviewed codes of practice and guidelines, as outlined in table 29 below.

Consumer safeguards

The ACMA monitors the service performance and compliance of communications companies with safeguards that establish minimum performance standards and information obligations for communications service providers.

Telecommunications Industry Ombudsman

Carriers and eligible CSPs are obliged to enter into a scheme providing for a Telecommunications Industry Ombudsman (TIO). The TIO scheme provides an alternative dispute resolution service for small business and residential customers. The TIO may investigate, make determinations and give directions relating to complaints about carriage services by end-users of those services.

Table 29: Reviews of community broadcasting codes of practice and guidelines

Code or guideline	Outcome
Community Radio Broadcasting Codes of Practice	Registered by the ACMA on 23 October 2008
Community Broadcasting Licence Transfer Guidelines	Issued on 23 October 2008
Temporary Community Broadcasting Licence Guidelines	Revised guidelines published on 30 June 2009
Community Broadcasting Participation Guidelines	Draft guidelines released for comment on 30 June 2009

Carriers and eligible CSPs have an obligation under the *Telecommunications Consumer Protection and Service Standards Act 1999* (the TCPSS Act) to join the TIO scheme. Members of the TIO scheme must comply with the scheme, which means they agree to comply with the TIO memorandum and articles of association and the TIO constitution.

Section 129 of the TCPSS allows the ACMA to declare a carrier or eligible CSP exempt from the TIO scheme.

On 11 November 2008, the ACMA granted four exemptions from the obligation to join the TIO scheme to:

- > CSC Australia Pty Ltd (ACN 008 476 944)
- > SCCL Australia Limited (ABN 53 084 509 366)
- > Intelsat Asia Carrier Services Inc
- > Victoria Rail Track (trading as VicTrack).

The exemptions were granted because the four businesses did not offer services to residential or small business customers.

Cases of failure to join the TIO scheme or members who fail to comply with the scheme are referred to the ACMA for further action. In 2008–09, the ACMA took action in the Federal Court to ensure compliance with the TIO scheme. The ACMA also formally warned one service provider to comply with the TIO scheme and directed another service provider to comply.

WE.net Pty Ltd

The ACMA took action in the Federal Court against the internet service provider, WE.net Pty Ltd, in response to four cases of non-compliance with key consumer protections. The action resulted in the imposition of civil penalties on the provider in October 2008, with its director, Mr Bradley Francis, also being penalised. Both the company and Mr Francis must comply with a number of court orders concerning their future conduct if they wish to engage in business as an internet provider.

Bytecard Pty Ltd

In March 2009, Bytecard, an internet service provider, was formally warned for contravening the TIO scheme. Bytecard has failed to cooperate with the TIO in resolving two customer complaints concerning disputed payments.

Green Tree Frog Pty Ltd

In May 2009, the ACMA issued a direction to the internet service provider, Green Tree Frog Pty Ltd, to comply with the TIO scheme. Green Tree Frog had failed to cooperate with the TIO in relation to two continuing matters—a failure to comply with a TIO Determination requiring Green Tree Frog to pay money to a customer and waive their early termination fee, and a failure to comply with a second TIO Determination requiring that Green Tree Frog refund money to a customer.

Universal service obligation and digital data service obligation

Part 2 of the *Telecommunications (Consumer Protection and Services Standards) Act 1999* establishes a universal service regime administered by the ACMA. The regime includes the universal service obligation (USO). The digital data service obligation was part of the regime until December 2008, when Telstra's designation as the digital data service provider was revoked by the minister. The digital data service obligation had been made redundant by the extension of the Australian Broadband Guarantee.

The USO is the obligation placed on universal service providers to make sure that standard telephone services, payphones and prescribed carriage services are reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business. Telstra continues to be the only USO provider and is responsible for all areas in Australia.

The ACMA monitors Telstra's performance in fulfilling these obligations and reports on these matters in its annual communications report.

For information about USO funding and eligible revenue assessment, refer to *Revenue and fees* in Chapter 2.

Payphone performance

As the universal service provider, Telstra must provide payphones that are reasonably accessible on an equitable basis to all people in Australia. This obligation covers the supply, installation and maintenance of payphones. The ACMA monitors payphone performance quarterly against measures specified in Telstra's Standard Marketing Plan (SMP) and publishes relevant tables on its website.

The ACMA has a complaint-handling role concerning Telstra's removal of payphones and any refusal by Telstra to relocate payphones, where the matter has not been resolved directly with Telstra.

In 2008–09, the ACMA received 21 payphone removal complaints and finalised 12 of its reviews within the reporting period. One complaint, lodged in December 2008, was later withdrawn by the complainant. Of the 12 reviews finalised all resulted in a finding that Telstra had complied with its SMP and other agreed processes. The ACMA expects to finalise the eight open reviews shortly.

Customer Service Guarantee

The ACMA monitors CSPs' performance against the CSG Standard time frames, and publishes performance information on its website and in other reports such as its *Telecommunications Performance Bulletin*, which is published periodically.

Quarterly performance data, covering the preceding calendar year, is normally published in each reporting period. In 2008–09, three reports covering the March, June and September 2008 quarters were published. Data for the December 2008 quarter was not published before the end of the reporting period due to the time required to collect and analyse data from CSPs. It is expected to be published early in 2009–10. Publication of the *Telecommunications Performance Bulletin* for 2008–09 was delayed and this will also be published in early 2009–10.

The ACMA also receives notification of exemptions claimed for mass service disruptions and monitors this information so that the requirements for claiming exemptions have been met.

Network Reliability Framework

The Network Reliability Framework (NRF) is a three-tiered compliance and reporting framework that aims to improve the reliability of Telstra's fixed-line telephone services for customers who have five lines or fewer. The NRF complements other consumer safeguards such as the USO and the CSG standard. It provides information on the general reliability of the Telstra network and also addresses the areas of worst performance, with a primary focus on customers experiencing ongoing problems with reliability.

Under the NRF, Telstra is required to provide the ACMA with network performance reports at three levels:

- > Level 1—geographical area level, based on Telstra's field service areas
- > Level 2—disaggregated parts of the network known as cable runs
- > Level 3—the individual service level.
All Telstra services covered by the CSG are included, that is, residential and small business customers with five lines or fewer.

The Level 2 requirement is for Telstra to undertake remediation work on a minimum of 40 of the worst-performing cable runs each month and provide reports on these remediations, with a requirement for the network event volume to be reduced by 90 per cent on those remediated cable runs. The ACMA is required to approve the initial selection of cable runs in line with a prescribed formula and to receive reports on the remediations. Where a remediation time frame has not been met, and the reasons for this comply with specific requirements, the ACMA can grant an extension of the remediation time frame. In 2008–09, Telstra reported and the ACMA approved 480 cable runs for remediation under the Level 2 obligations and granted 20 extensions of time for remediation.

The Level 3 requirement is for Telstra to remediate individual services that have experienced more than three fault or service difficulties in a 60-day rolling period or more than four fault or service difficulties in a 365-day calendar period. The ACMA is required to approve a proposed remediation plan for the services. In 2008–09, the ACMA approved 1,788 Level 3 remediation plans.

Service performance under the NRF is reported in the ACMA's annual communications report.

Priority assistance

Priority assistance is an enhanced telephone connection and repair service for people with a diagnosed life-threatening medical condition who are at risk of suffering a rapid, life-threatening deterioration in their condition. The service provides residential customers with access to a reliable, fully operational home telephone service to call for assistance when needed.

Priority assistance customers are entitled to faster connection and fault repair times—24 hours in urban and rural areas, and 48 hours in remote areas—and greater service reliability. If a priority assistance customer experiences two or more faults in a three-month period, substantial telephone service testing is undertaken by the carrier.

It is a condition of Telstra's carrier licence, Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997, that it implements an effective priority assistance system. The ACMA meets regularly with Telstra and DBCDE about priority assistance and reports to the minister on Telstra's compliance with the licence condition. Telstra's priority assistance performance information is reported on the ACMA's website.

The licence condition requirements for priority assistance only apply to Telstra. AAPT and Primus both offer priority assistance services consistent with the Industry Code ACIF C606:2007 *Priority Assistance for Life Threatening Medical Conditions*, which was first registered in 2003. Optus has developed its own guidelines for the provision of a priority service for customers with life-threatening medical conditions.

Local presence plan

Under its licence conditions, Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997, Telstra is required to maintain a local presence in regional, rural and remote Australia, to the extent that this is broadly compatible with its overall commercial interests. It is also required to report on its performance against the plan to both the ACMA and the minister.

In 2008–09, ACMA received Telstra's report for the 2007–08 reporting period, reviewed the report to confirm compliance with the licence condition and provided advice to the minister.

National Relay Service

The National Relay Service (NRS) provides people who are deaf or who have a hearing or speech impairment, with access to a standard telephone service on terms, and in circumstances that are comparable to the access other Australians have to a standard telephone service. There is also an outreach component to raise awareness of the NRS throughout Australia and to offer training and support in its use.

The NRS legislative obligations are outlined in Part 3 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

The relay service and the outreach program are delivered under separate contracts, negotiated by the Department of Broadband, Communications and the Digital Economy on behalf of the Australian Government. Since 1 July 2006, the relay service has been provided by the Australian Communication Exchange Ltd (ACE) and the outreach service has been delivered by WestWood Spice (WWS), a marketing and communications consultancy.

The ACMA has legislated responsibilities for a number of items relating to the NRS including:

- > collecting the NRS levy from eligible telecommunications carriers for payment to the NRS providers for the cost of providing the NRS
- > regular monitoring of the performance of the NRS providers
- > the provision of an annual performance report to the Minister.

In addition, since 1 July 2006, the ACMA has been responsible for managing both contracts for the provision of the NRS. In 2008–09, key activities undertaken by the ACMA relating to these contracts include:

- > confirming extension of the contract with WWS for the NRS outreach component from 1 January 2009 until 30 June 2011
- > an internal mid-term review of the contract with ACE to assess the efficiency, effectiveness and the scope of the delivery of the relay service
- > organisation of a round table discussion of the results of the NRS user surveys, involving both providers and the independent consultants who undertook the surveys.

Refer to Chapter 2 for information about funding of the NRS.

Performance reporting

The ACMA monitors the quarterly performance of both NRS providers and is required to provide an annual report to the minister on their performance, against the requirements of the NRS Plan. The NRS plan includes performance standards applicable to the provision of the relay and outreach service components.

The performance report for 2007–08 was provided to the minister on 24 February 2009 and is available on the ACMA's website.

Consultation with users

The NRS Customer Consultative Committee (NRSCCC) continued to operate in 2008–09 under the auspices of the NRS relay service provider. The ACMA has an observer role on this committee, and is also able to nominate new members and approve membership. The NRSCCC held meetings in December 2008 and April 2009, thereby fulfilling the contractual requirement of holding at least two meetings each financial year. Representatives of the ACMA attended both meetings.

Do Not Call Register

For telemarketing complaints and investigations, refer to *Compliance investigations* in Chapter 2.

The *Do Not Call Register Act 2006* (the DNCR Act) requires the ACMA to keep, or to arrange for another person to keep, the Do Not Call Register (the register). The register was launched on 3 May 2007 and allows individuals to list their home and mobile numbers to opt out of receiving unsolicited telemarketing calls. There is no cost for listing numbers on the register.

Numbers can be registered if they are used primarily for private or domestic purposes. Individuals can list numbers through the register's website, by post or by telephone. More than 1.12 million telephone numbers were added to the register in 2008–09 and, by 30 June 2009, a total of 3.54 million telephone numbers had been registered.

There is a general prohibition on making unsolicited telemarketing calls to a number listed on the Do Not Call Register. There are limited exemptions to enable certain public interest organisations to call numbers listed on the register. Exceptions also apply where the account-holder of a number on the register consents to the call or where consent can be reasonably inferred.

To avoid breaching the DNCR Act, telemarketers and businesses that make telemarketing calls are able to submit their telephone calling lists to the register operator for checking against the register. By 30 June 2009, 3,705 telemarketers were registered to check telephone numbers and more than 2.02 billion telephone numbers had been checked, or 'washed', against the register.

Register contract

On 1 February 2007, the Commonwealth, entered into a four-year, \$13.3 million (including GST) contract with Service Stream Solutions Pty Ltd to establish, operate and manage the Do Not Call Register. The value of this contract at 30 June 2009 was \$15.04 million (including GST), after acquisitions of additional services, including:

- > extra capacity for the telephone registration system during its launch
- > the incorporation of an additional means of submitting telephone contact lists for checking against the register
- > enhancements to the complaints management system.

The ACMA manages the contract and assesses Service Stream Solutions' performance under the contract monthly. During 2008–09, the ACMA remained satisfied with the contractor's performance.

Ineligible business numbers on the register

As outlined above, numbers can only be placed on the Do Not Call Register if they are used primarily for private or domestic purposes.

Since the launch of the register, the ACMA has received and assessed telemarketing industry complaints that 'ineligible' numbers have been added to the register. Up to 31 January 2008, of the numbers assessed by the ACMA arising from these complaints, 73 per cent were found to be eligible to remain on the register, with the remainder assessed as ineligible and subsequently removed from the register.

In February 2008, the ACMA instituted a policy to improve the efficiency of ACMA's assessment of these complaints. This policy requires submitters to provide supporting information to substantiate their claims that a number is ineligible to be on the register. Between February 2008 and 30 June 2009, the ACMA did not receive any complaints that had sufficient supporting information to enable a formal assessment of the complaint.

Access fees and cost recovery

Refer to *Revenue and fees* in Chapter 2.

Industry and consumer awareness campaign

During the reporting period, the ACMA continued to raise awareness of the register by educating consumers and industry on their rights, roles and responsibilities under the DNCR Act.

The Do Not Call Register website www.donotcall.gov.au provides detailed information about the operation of the register and the DNCR Act, including information sheets and an online enquiry form. A downloadable consumer brochure is also provided in six different languages.

Consumer research undertaken in April 2008 found a lower level of awareness of the Register among 18–24-year-olds and people from non-English-speaking backgrounds. In response to this finding, an online advertising campaign was developed to raise awareness of the register, particularly among these two groups.

During the reporting period, the ACMA published two issues of the electronic newsletter—*Making the right call*—to help raise the awareness in the telemarketing industry of issues related to the DNCR Act and the operation of the register. The industry brochure—*Do Not Call Register – A guide for your business*—was also updated. Information on the telemarketing industry website (the Telemarketer Access Portal) was regularly updated over the year.

The *Do Not Call Register Act 2006 Compliance guide* was released by the ACMA on 6 July 2009. The guide provides information to the telemarketing industry on best practice for compliance with the DNCR Act.

Regular articles in *ACMAsphere*, the ACMA's monthly newsletter, have continued to provide key stakeholders with updates on consumer and industry issues including industry compliance, progress with investigations and telephone number registration trends.

Performance audit

During the reporting period, the Australian National Audit Office (ANAO) commenced a performance audit of the register. The objective of the audit is to assess the ACMA's effectiveness in managing, operating and monitoring the register, including its compliance with legislative requirements. The final report is expected to be presented to Parliament in 2010.

Industry standard for unsolicited calls

The Telecommunications (Do Not Call Register) (Telemarketing and Research Calls) Industry Standard 2007 (the standard) places a number of requirements on those making unsolicited telemarketing or research calls. These requirements relate to:

- > the days and times when telemarketing and research calls cannot be made
- > the information that must be provided by the callers including their name and business
- > the termination of telemarketing and research calls
- > enabling calling line identification.

Section 5 of the standard relates to the prohibited calling times for telemarketing and market research calls. A note under section 5 of the standard states: 'ACMA intends to review the operation of section 5 as soon as practicable after 31 May 2008'.

In May 2008, the ACMA sought the views of representatives of the telemarketing industry and key consumer groups on the need for this review during 2008–09. This consultation was framed in the context of the scheduled 2010 review of the DNCR Act by the Department of Broadband, Communications and the Digital Economy. The consensus from industry and consumer groups was that, in the absence of any immediate need, the review of the standard could be delayed to coincide with the 2010 review.

No revisions were made to the standard during this reporting period.

Proposed expansion of the Do Not Call Register

On 12 May 2009, the government announced that it intends to expand the Do Not Call Register to allow all types of numbers, including business and fax numbers, to be listed. To enable this expansion, it is expected that the government will introduce legislation into parliament later in 2009, or in 2010, to amend the DNCR Act. The ACMA will be responsible for implementing the operational changes to the register if the proposed amendments are enacted.

Extended zones agreement

In June 2001, the government entered into a 10-year, \$150 million contract with Telstra to provide untimed calls at the local call rate, untimed internet access and other enhanced services to the extended zones in remote Australia.

As contract manager on behalf of the government, the ACMA assessed the extent to which the agreement's objectives of maintaining and enhancing existing service levels were met.

A report of the prescribed five-year review of the extended zones was provided to the minister in October 2008. The review was conducted by the parties to the contract—Telstra and DBCDE—with assistance from the ACMA, and covers Telstra's performance in meeting the key elements of the agreement.

Mobile phone coverage

In 2008–09, the ACMA monitored carrier performance under four government contracts awarded to improve mobile phone coverage in selected regional towns and on key highways across Australia. The ACMA advised the contract manager, DBCDE, on the performance of the contractor (Telstra) under the agreements during the reporting period. In addition, the ACMA finalised reporting requirements for the Mobile Phones on Highways contract with Vodaphone, which ceased reporting on 17 June 2008.

Ongoing monitoring activities based on carrier self-reporting included;

- > half-yearly reporting on Telstra's performance relating to the provision of funding for mobile phone coverage in designated locations
- > half-yearly quality of service monitoring of Telstra's performance under three contracts to provide improved mobile phone coverage in selected small towns and segments of regional highways.

Telstra Next G™ Network Coverage

On 15 April 2008, the minister announced that Telstra had met the requirements of its licence condition to allow closure of its CDMA mobile phone network from 28 April 2008.

Since April 2008, the ACMA has been responding to enquiries and complaints about coverage of the Telstra Next G™ Network to assess whether there are any issues related to Telstra's licence condition (to maintain mobile coverage that is equivalent to or better than the former CDMA network).

The ACMA received 20 enquiries and complaints from Next G™ customers about equivalence of coverage during the period 1 July 2008 to 30 June 2009. Eleven individuals submitted written complaints to the ACMA. Most complainants reported that their Next G™ mobile phone cannot be used in all areas locally where they previously used their CDMA phone. Assessment of complaints has not indicated problems with Telstra maintaining equivalent coverage as required under the relevant licence condition.

The ACMA has provided written responses to complainants discussing coverage in their area and explaining equivalence of coverage. Guidance was provided as to how they can best rectify their coverage concerns, chiefly by contacting Telstra for assistance with handsets, external antennas and related matters.

The ACMA has also reviewed quarterly data provided by Telstra on call drop out and network congestion for the period 1 April 2008 to 31 March 2009 and will be reporting to the minister on this analysis in the next reporting period.

Pair gains systems

On 31 December 2008, the ACMA completed monitoring Telstra's performance under a deed established between DBCDE and Telstra, based on a recommendation of the Regional Telecommunications Inquiry (RTI), *Strategy for Improving Levels of Service for 6/16 and Other Similar Pair Gain Systems* (Deed 2.7).

Deed 2.7 targeted 6/16 pair gain systems (and similar systems) identified by the RTI as unreliable and problematic from an emergency services point of view. The deed relates to Telstra's strategy for improving levels of service for 6/16. The last data received from Telstra (December 2008) indicates that there are 2,809 pair gain systems remaining in the network, down three per cent from the previous year.

The ACMA also monitored network congestion levels for customers on 6/16 pair gain systems, measured by the Network Grade of Service. Mini-line concentrator (MLC) systems include 6/16 pair gain and other similar systems. Where individual MLC systems fail to meet specific service levels, Telstra is required to remedy them. Telstra must also meet an overall Network Grade of Service target.

The Network Grade of Service remained constant at 98 per cent in 2008. Under the provisions of the deed, Telstra was required to achieve a 95 per cent System Grade of Service by 31 December 2004. Telstra has consistently exceeded the target since achieving it in the September 2004 quarter, and maintained a Grade of Service above 98 per cent since 2006.

Information on pair gain improvements is published on the ACMA website.

Internet Assistance Program

RTI Recommendation 4.1 was given effect by a licence condition on Telstra commencing on 9 October 2003 to assist customers on dial-up internet services to achieve a Minimum Equivalent Throughput (MET) of 19.2 kbit/s. The licence condition directs Telstra to provide a self-help service to assist users of dial-up internet to achieve the specified MET.

Telstra is required to report quarterly to the ACMA on its compliance. As part of the Internet Assistance Program (IAP), the ACMA continues to liaise with Telstra regarding its performance under the licence condition.

Information on the IAP is published by the ACMA on its website.

Protection of consumer information

The ACMA has powers and responsibilities under the Telecommunications Act that contain specific privacy provisions relating to the protection of communications. Part 13 of the Telecommunications Act outlines a series of limitations and exceptions for the protection of personal particulars and communications, and provides for the ACMA to administer the Integrated Public Number Database (IPND) Scheme.

The IPND is an industry-wide database of all listed and unlisted public telephone numbers. It was established in 1998 and is currently managed by Telstra under the Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997.

The IPND Scheme allows for the assessment of applications for authorisation for public number directory publishers and researchers of a kind specified by the minister as being in the public interest. In the year to 30 June 2009, two authorisations were granted, three authorisations were refused and three applications are currently under consideration.

Community awareness

The ACMA's role includes informing consumers about communications products and services that are available to them, and ensuring that industry and consumers are informed about their communications rights and obligations.

Cybersafety

The ACMA's role includes the development and implementation of a national cybersafety education program. This role was conferred on the ACMA under Schedule 5 of the BSA. As part of its Cyber-Safety Plan, the government announced funding in the 2008–09 Budget of \$14.2 million over four years for the ACMA's cybersafety activities.

In 2008–09, awareness activities focused on the continuing development and deployment of internet safety presentations and teacher professional development for the outreach program (see below) and the development of cybersafety education programs and information material for schools, parents and libraries. Development of a new website to take the place of both the NetAlert and Cybersmart Kids websites also commenced, with delivery expected by mid-2009.

Outreach program

The ACMA has developed, and is currently rolling out, a comprehensive Cybersafety Outreach education program for teachers, students and parents across Australia. These presentations and workshops provide valuable information on the risks confronting children online, as well as giving appropriate tools and strategies to help make internet experiences safe and positive. All programs and resources are free.

The Outreach program currently consists of:

- > Internet Safety Awareness Presentations to teachers, students, parents and other key stakeholders
- > Professional Development for Educators workshops.

The Internet Safety Awareness Presentations are easy-to-understand, non-technical and informative and cover a range of issues. This includes ways children use the internet and emerging technologies, potential risks faced by children when online such as cyberbullying, identity theft, inappropriate contact and exposure to inappropriate content. They also offer tips and strategies to help children stay safe online.

The Cybersafety Outreach—Professional Development for Educators program is a full-day workshop offered either on-site or off-site. It provides teachers with a comprehensive understanding of a modern student's technology profile, digital literacy, positive online behaviour, personal and peer safety and the school's and teachers' legal obligations to minimise and address risks. This program has been accredited by the New South Wales Institute of Teachers and endorsed by the Victorian Institute of Teaching.

Since July 2008, the ACMA's Outreach program has delivered 456 presentations on internet safety to more than 41,800 people. Over 600 schools have registered for internet safety awareness presentations since December 2008. In addition, since January 2009, the ACMA has run 69 Professional Development for Educators workshops reaching 1,716 educators. The demand for both programs continues to be high. To meet this demand, a further two trainers were engaged in January 2009.

Complementing the Professional Development for Educators program will be a set of e-Learning modules which will help to increase access to the program, especially for those in remote and regional areas. The e-Learning modules are expected to be available in 2010.

The ACMA is also developing a cybersafety program for trainee teachers. It is expected this program will be piloted toward the end of 2009 before a national rollout in 2010.

Cybersafety information for schools

The ACMA's current range of cybersafety resources includes interactive multimedia products for primary and secondary schools. These products provide teachers with activities and lesson plans for classroom use and include:

- > CyberQuoll <www.cyberquoll.com.au> for primary school students
- > CyberNetrix <www.cybernetrix.com.au> and WiseUp To IT <www.wiseuptoit.com.au> for secondary students.

In 2008–09, the ACMA updated these resources to ensure they met accessibility requirements, making them available to the broadest possible audience.

The ACMA agreed to partner with Hector's World Ltd to bring Hector's World™ to Australia. Hector's World™ is an innovative online safety resource for young children featuring an animated dolphin called Hector. The resource, which includes animation and lesson plans, is targeted at young primary school age children. An Australian version of the resource will be made available through the new cybersafety website, due for release in mid-2009.

The ACMA commissioned a consultancy to commence development of a 'schools gateway'. The gateway, launched at the end of 2008–09, targets all members of the school community with cybersafety information resources and teaching materials. It is hosted on the new cybersafety website. Originally to be known as the 'schools kit', the name was changed following feedback from the education community.

The ACMA has also commissioned SuperClubsPLUS Australia, a protected social learning environment for school children aged 6 to 12 years, to develop and deliver a Cybersmart Badge within the club. More than 12,000 children have attempted the Cybersmart Badge, which comprises a series of cybersafety activities including a quiz and a home audit, since it was launched in September 2008. Other cybersmart activities included a well-attended cyberbullying guest seat and three competitions where children submitted cybersafety posters and advice or solved a mystery cybersmart code.

Cybersmart Detectives

Cybersmart Detectives is an interactive online activity developed for use in schools, and designed to teach children how to stay safe in the online world. The interactive nature of the resource has meant it has proven to be very popular with school children, and endorsed as a valuable learning tool by teachers.

The activity has previously been available to all Western Australian schools (through the support of the West Australian Department of Education and Training), and Victorian schools. In the 2008–09, the activity was released to schools in all other states in Australia. Cybersmart Detectives activities were played by 300 schools (6,500 students) in 2008–09, up from 81 schools (2,500 students) in 2007–08.

A new version of the activity, featuring greater interactivity and incorporating safety issues raised by social networking services, has been piloted in Western Australia and will be rolled out in mid-2009. This updated version will be accompanied by new teaching resources and support materials.

The ACMA will continue to promote and expand the activity and build on the key partnerships with state education agencies and police to maximise children's exposure to the online safety message.

Cybersafety information for parents

The ACMA also commenced work to develop cybersafety resources for parents. Research was undertaken during the year into what types of cybersafety information parents require and which channels for delivery are most appropriate. This research will be used as a basis for the preparation of a suite of cybersafety materials and advice for parents, rather than the stand-alone kit originally planned. The development of comprehensive tips, advice and information for parents, made available on the new Cybersmart website, was the first stage of development.

Cybersafety information for libraries

In recognition of the important role that public libraries play in providing internet access and educating users, the ACMA produced and distributed a range of resources targeted to library staff, and provided sponsorship for Library and Information Week in May 2009.

The ACMA's *Cybersmart Guide for Library Staff* provides library staff with the information, support and tools to effectively promote internet safety, especially for children, in Australian public libraries. The guide is complemented by information for families in the *Cybersmart Guide for Families—Safe Internet Use in the Library and at Home*, a cyber rules poster for young internet users and a series of online cybersafety videos. About 140,000 copies of these resources were distributed throughout 2008–09.

Further information for libraries will be available on the new cybersafety website.

Cybersafety brochures

ACMA continued to produce high-quality information sheets and brochures to address cybersafety issues.

This year, the ACMA distributed 567,958 brochures on various cybersafety topics, bringing the total number distributed since 2002 to more than two million.

Cybersmart Kids

While its new site is in development, the ACMA's Cybersmart Kids website <www.cybersmartkids.com.au> continues to provide internet safety advice to children, parents and teachers. Safety information and tips were updated throughout 2008–09 to reflect current online safety issues.

Key partnerships

The ACMA has continued to collaborate with agencies involved in online safety, and in 2008–09 signed memorandums of understanding with NetSafe (New Zealand's online safety advisory body) and Childnet International (UK). Under these agreements, the ACMA undertook to share information and work collaboratively with these agencies on cybersafety matters.

Other key partners include agencies involved in the Government's Consultative Working Group on Cybersafety, of which the ACMA is a member, as well as state and federal police forces and education departments.

Working with these partners, the ACMA organised Australia's contribution to International Safer Internet Day on 10 February 2009. Safer Internet Day events were coordinated internationally by INSAFE, the European network of internet safety organisations. Australia is an associate member of INSAFE and has participated in Safer Internet Day since 2004.



ACMA Member Ms Jennifer O'Neill with Constable Jenna Carcary and students at the Queensland launch of Cybersmart Detectives during National Child Protection Week.

The ACMA also partnered with the Australian Federal Police and Microsoft in piloting the Think U Know program for parents in early 2009. The program delivered cybersafety information sessions to parents, with sessions conducted by trained volunteers. The pilot program operated in New South Wales, Victoria and the ACT.

Research program

ACMA completed its Cybersafety and Social Networking Service research project, with the results to be published in July 2009.

The outcomes of the research project are being used to inform the development of new cybersafety advice and resources for young people and parents.

Telecommunications awareness

Mobile phone safety

The ACMA revised and updated consumer and industry information on mobile premium services to include recent legislative and code changes during 2008–09. The ACMA website includes consumer friendly fact sheets and frequently asked questions about the protections and help available for consumers who choose to access mobile premium services. The information also directs consumers towards resources designed to increase the transparency of the mobile premium services industry.

Scam awareness

The ACMA participated in the Australasian Consumer Fraud Taskforce to raise community awareness of scams. The taskforce comprises 19 government regulatory agencies and departments who work together with community, non-government and private sector organisations as partners, to increase consumer awareness of fraud and scams. As a member of the taskforce, the ACMA contributed to the 2009 Fraud Forum, a gathering of relevant agencies and media in March 2009 to discuss and promote the dangers of scams, and the need to protect individual information and finances.

Internet awareness

Special audiences

The ACMA continues to increase the accessibility of its advice to the public about matters relating to new and converging communication technology by translating important information about online social networking into over 20 other languages in common use in Australia. The information covers risks and safety advice for users of online social networking services and can be downloaded from the ACMA website.

Research and reporting

The ACMA undertook a range of research into changing use and community attitudes towards communications and media services, and technology and market developments. The research and reporting program supports the ACMA in meeting its statutory obligations to report and advise the minister on telecommunications, radiocommunications and broadcasting, internet and datacasting services. It assists the ACMA in making informed decisions as an evidence-based regulator and understanding the implications that regulation of communications and media markets may create.

The research program explores four broad themes:

- > consumer and audience attitudes and service use
- > market trends in service developments and supply models
- > technology developments
- > economic analysis and regulatory reviews.

These research themes are consistent with the ACMA's regulatory functions which require the ACMA to:

- > report and advise the minister on the telecommunications industry and on matters affecting consumers or proposed consumers of carriage services (section 8(c) and (d) ACMA Act)
- > make available to the public information about matters relating to the telecommunications industry (section 8(g) ACMA Act)
- > monitor and report to the minister each year on significant matters relating to the performance of telecommunications carriers and carriage service providers (section 105 of the *Telecommunications Act 1997*)
- > report to and advise the minister in relation to the radiocommunications community (section 9(c) ACMA Act)
- > make available to the public information about matters relating to the radiocommunications community (section 9(e) ACMA Act)
- > conduct or commission research into community attitudes on issues relating to programs and datacasting content (section 10(h) ACMA Act)
- > inform itself and advise the minister on technological advances and service trends in the broadcasting industry, internet industry and datacasting industry (section 10(n) ACMA Act)
- > report to and advise the minister on the broadcasting industry, internet industry and datacasting industry (section 10(q) ACMA Act)
- > conduct research into issues relating to internet content and internet carriage services and conduct or commission research into content services (section 94 Schedule 5 and section 114 Schedule 7 Broadcasting Services Act).

Report 1: Trust and confidence was released in March 2009 and is the first in the Australia and the Digital Economy series.

Consumer and audience research

In 2008–09, the ACMA published a range of research reports that explored changes in the use of communications and media services and community attitudes.

Research into community attitudes to radio content

Ipsos Media CT conducted research for the ACMA into community attitudes to radio content. The stage one telephone survey was conducted in January and February 2009 among 1,537 Australians aged 15 years and over and identified radio listening behaviours, the attitudes of listeners to a range of radio content, and listener awareness of the complaints process. Ipsos Media CT also commenced a stage two online survey for the ACMA in June 2009 into the attitudes of 1,200 commercial radio listeners to specific examples of commercial radio content.

The research will inform current reviews of the commercial radio *Codes of Practice & Guidelines*, and the commercial radio program standards that apply to disclosure, advertising and compliance. Results from both surveys will be reported by the ACMA in the latter half of 2009.

Australia in the Digital Economy series

In the *Australia and the Digital Economy* series, the ACMA conducted research examining the drivers and enablers of the digital economy through the attitudes and behaviours of Australian internet users to online security and privacy; digital confidence and skills; the take-up and use of the internet; and factors which influence people's decisions to participate or not participate online. Two reports in this series were released:

- > *Report 1: Trust and Confidence*
- > *Report 2: Online Participation*



Convergence and Communications series

In the research series *Convergence and Communications*, the ACMA examined the use and provision of telecommunications services in Australia, consistent with its regulatory responsibilities, to make available information and report about the performance of the telecommunications industry. Three reports in the series were released including:

- > *Report 1: Australian household consumers take-up and use of voice communications services*
- > *Report 2: Take-up and use of communications by small and medium enterprises*
- > *Report 3: Consumer satisfaction with communications services*

Telecommunications in Remote Indigenous Communities

In September 2008, the ACMA released the report *Telecommunications in Remote Indigenous Communities* which provided a detailed overview of telecommunications services in remote Indigenous communities, and discussed the factors that may inhibit or enable service availability and use. The research assisted the ACMA in its regulatory responsibilities and provided information for a wider audience about the levels of telecommunications service in Indigenous communities.

Digital media literacy

During the year, the ACMA undertook a range of activities linked to supporting digital media literacy in Australia. Digital media literacy is broadly defined as the ability to access, understand, and participate in, or create content, using digital media, and this is a common theme of the ACMA's work, particularly in the area of awareness.

The ACMA's work in digital media literacy reflects the increasing importance of co-regulatory and self-regulatory models in the developing digital communications and media environment, where individuals and families will be required to take a higher level of responsibility for their own media behaviour. In addition, the development of the digital economy will see an increasingly wide range of government, business, educational, and entertainment services being made available online.

The development of digital media literacy is a key to Australians being able to participate effectively in the digital economy and in society, generally, by having the skills and capabilities to make informed choices about media and communications services.

The ACMA's digital media literacy research program contributes to the work of the Online Communications Council's Digital Economy Group (DEG), comprising representatives of Commonwealth, State, Territory and local governments.

Families and Media Literacy Research Forum

The Families and Media Literacy Research Forum, held in September 2008, provided an opportunity for industry representatives, researchers and educators to engage with the ACMA about digital media literacy issues. At the forum, the ACMA launched three short reports that provide insights into digital media literacy in Australia: *Internet use and social networking by young people*, *Media use by girls and boys*, and *Access to the internet, broadband and mobile phones in family households*. The ACMA developed the reports from data collected in its 2007 study *Media and Communications in Australian Families*.

Digital media literacy information on the ACMA website

In late 2008, the ACMA created a new section on its website which brings together information, research and activities about digital media literacy. This section includes information about the ACMA's programs and activities promoting media literacy and its digital media literacy research program, and includes links to Australian and overseas resources relating to digital media literacy.

Digital media literacy—short papers and reports

The ACMA also publishes short papers and reports about aspects of digital media literacy on its website, for example, the *Use of digital media and communication by older Australians* published in May 2009. In June 2009, the ACMA published a paper which sets out findings from its 2008–09 research into indicators of digital media literacy and available research sources. The paper is titled *Digital media literacy in Australia: Key indicators and research sources*.

Digital media literacy research program

The major objectives of the ACMA's digital media literacy research program are to collect evidence about the nature and levels of use of digital media, and the drivers of and barriers to digital media literacy in Australia and to connect with existing players in Australia with the aim of identifying possible gaps in the promotion of digital media literacy and how they might be addressed.

In 2008–09, the ACMA completed two qualitative research projects. These examined:

- > behaviours and attitudes to digital communications media of adult Australians who are non-users and limited users of internet and advanced features on mobile phones
- > attitudes of adult Australians to the provision of personal information when using digital media and communications, their awareness of risks, and mitigation strategies they use.

Reports on the research are expected to be published later in the year.

International Media Literacy Research Forum

The ACMA continued its participation in the International Media Literacy Research Forum, exchanging information with other forum members, including Ofcom (UK) the Canadian Association of Media Education Organisations, the Dublin Institute of Technology (Ireland), the New Zealand Broadcasting Standards Authority, and the US National Association for Media Literacy Education.

Research program relating to internet safety

The ACMA commissioned two research studies in 2008–09 to inform its cybersafety activities, including updating the current suite of education program materials.

Cybersafety and social networking services

In 2008 *GfK Blue Moon* conducted quantitative and qualitative research for the ACMA into the online safety behaviours and attitudes of children and young people aged eight to 17. The research explored children's, young people's and parent's perceptions of online risks and opportunities, with an emphasis on the ways in which children and young people use social networking services.

The research found a high level of use of social networking services, especially by young people aged 12 to 17. Children and young people also reported high levels of awareness of cybersafety risks and key cybersafety messages. For example, the majority identified activities such as posting personal information as high risk behaviour, and most reported adherence to the accepted guidelines for online safety.

The research reports are expected to be released in mid-2009.

Cybersafety education resources for parents

In 2009 the ACMA commissioned *Newspoll* to conduct research to inform the development of new cybersafety materials for parents of children aged four to 17. The research includes a qualitative phase and a quantitative survey of more than 600 parents of children in this age group. It will identify the online safety information parents require to manage a range of key cybersafety issues such as personal and peer safety, including privacy and inappropriate contact; online behaviours such as cyberbullying and netiquette; digital literacy; and security issues.

The research will also test parents' preferred method of delivery for each type of information resource, with special consideration to the difference between first-line and follow-up delivery channels.

Findings from the research are expected to be released later in 2009.

Market trends and service developments

During the year, the ACMA's research examined changes in traditional and emerging communications services.

Fixed-mobile convergence and fixed-mobile substitution

Released in July 2008, the report examined the two related, but separate developments in the fixed and mobile markets—convergence and substitution. The report considered the influences in Australia on developments of fixed-mobile convergence and fixed-mobile substitution and the implications of these developments for the Australian marketplace.

Communications infrastructure and service availability 2007–08

The report, produced jointly with the Australian Competition and Consumer Commission, provided an overview of the infrastructure and service availability of broadband, fixed voice, mobile voice and mobile data services in Australia. The report updates the 2006–07 report.

Technology developments

The technology research program is directed to developing an understanding of the implications of technology change for regulation and in particular the impact of technology convergence on the ACMA's regulatory activities.

Trends in communications and media technology, applications and use

Trends in communications and media technology, applications and use, released in March 2009, provides an update on technology developments since the release of the ACMA's *Top Six Trends in Communications and Technologies* report in May 2008. This new report identifies five key developments placing pressure on media and communications regulation, and gives an overview of communications and media infrastructure, applications, social and economic trends and developments in 2008, as well as outlining developments anticipated for the next five to 10 years.

Investment in broadband, digital and internet protocol (IP) based infrastructure, and the ongoing evolution in web standards, influenced technology developments in Australia. Another key development identified included the integration of IP across a range of networks and services. The rapid expansion of social media was also contributing to developments in social networking and the rise of new media influencers and the personalisation of web experiences, including location-based services.

ENUM

Please refer to *ENUM* under *Telecommunications numbering* in Chapter 2.

Ministerial reports

Report to minister on developments in internet filtering technologies and other measures for promoting online safety

On 9 June 2007, the then Minister for Communications, Information Technology and the Arts made the Protecting Australian Families Online Direction No. 2 of 2007 under section 171 of the Broadcasting Services Act. The direction instructed the ACMA to investigate developments in internet content filtering technologies and other safety initiatives to protect consumers, including minors, who access content on the internet. The ACMA was directed to provide a first report of its findings by 31 December 2007, and two subsequent reports by 31 December 2008 and 2009.

In April 2009, the Minister for Broadband, Communications and the Digital Economy released the second of the three reports entitled *Developments in Internet Filtering Technologies and Other Measures for Promoting Online Safety* (the report).

A key finding of the report is that an optimal online risk mitigation strategy includes a suite of measures targeted at different points in the supply chain. Measures deployed across the supply chain may include:

- > ISP blocking of illegal content and user deployment of filtering technologies
- > parental monitoring of children's activities
- > education initiatives
- > hotlines to report potentially illegal content to support investigation and law enforcement.

An observation of the report is that increased use of social media services by both adults and children is likely to increase the potential for online risks for all age groups. The diffusion of ICTs in Australia's economy and society and the increasing participation in the digital economy means that risk mitigation strategies are relevant for all users.

The report observes that a coordinated and overarching strategy that defines specific roles for all parties (industry, government, educators, parents) is being implemented in some European countries to reduce online risks—replacing the more fragmented or piecemeal approach that previously existed.

Communications report

The ACMA Communications Report 2007–08 (released December 2008) fulfils the ACMA's obligations under section 105 of the Telecommunications Act to report to the minister on all significant matters relating to the performance of carriers and carriage service providers, with particular reference to consumer satisfaction, consumer benefits and quality of service. This third report reflects the ACMA's regulatory responsibilities, and covers many aspects of the broadcasting, internet, radiocommunications and telecommunications industries. The report also examines the availability of different types of communication products and services, levels of adoption and use, and industry performance in meeting regulatory obligations. Analysis in this report is based on a range of data sources including the ACMA's annual Section 105 information request to industry, commissioned surveys and third-party public sources.

Anti-siphoning reports

Please refer to *Anti-siphoning provisions* under *Content regulation* in this chapter.

Economic analysis and regulatory reviews

The ACMA also undertook the following reviews examining spectrum allocation issues during the year.

Review of trading in radiofrequency licences

ACMA consulted on the effectiveness of the secondary market for radiofrequency licences in Australia during the year. The review considered whether trade in licences is currently fully facilitated and outlined possible reforms to the trading system including the provision of superior market information to traders and technological neutrality in licensing. The ACMA is currently considering its response to issues raised during the consultation process.

Chapter 4

Managing and developing our resources

An abstract graphic consisting of numerous thin, light-colored lines that curve and flow across the page, starting from the left and extending towards the right, creating a sense of movement and depth.

Chapter 4 details the ACMA's staffing arrangements, information and knowledge management activities, corporate governance arrangements and financial and property management strategies.

The ACMA continues to focus on strengthening its corporate, financial management and information management frameworks.

Our people

The ACMA's staffing complement at 30 June 2009 was 617, compared with 591 at 30 June 2008. Comparative staffing details are given in Appendix 3.

Employment arrangements and conditions of work for all non-SES employees of the ACMA are determined by the *ACMA Collective Agreement 2008–10* (the ACMA Agreement), a collective agreement under section 328 of the *Workplace Relations Act 1996*. The ACMA Agreement was negotiated in the latter half of 2007, came into effect on 30 June 2008, and has a nominal expiry date of 31 December 2010.

Approximately 599 employees are covered by the ACMA Agreement, the key features of which are:

- > three-year agreement
- > salary increases of:
 - 4.6 per cent from 1 January 2008
 - 4 per cent from 1 January 2009
 - 4 per cent from 1 January 2010
- > a seven-and-a-half hour working day
- > access to paid leave for parental purposes
- > streamlined redundancy and retrenchment provisions
- > access to flexible working arrangements that promote work/life balance.

Conditions are attached to the salary increases in 2009 and 2010, with 0.5 per cent and one per cent respectively being dependent on 90 per cent of eligible staff completing performance reviews. Those conditions were satisfied for the pay increase due and made on 1 January 2009 resulting in a four per cent increase.

Salary ranges available under the collective agreement are in Appendix 3.

Common law arrangements are the prime employment instrument for 18 Senior Executive Staff (SES). While the ACMA Agreement is the prime employment instrument for all other staff, additional benefits are conferred under common law arrangements for 74 Executive Level employees and one Australian Public Service (APS) level employee.

At 30 June 2009, the salary ranges for employees on common law arrangements were:

- > SES1: \$129,599 to \$146,074
- > SES2: \$164,745 to \$181,220.

Non-salary benefits provided to employees on common law arrangements may include:

- > at-risk pay
- > performance bonus
- > retention bonus
- > mobile telephone/BlackBerry
- > airline club membership
- > residential broadband service
- > car allowance
- > parking
- > laptop or personal computer and printer for use at home
- > outplacement assistance/financial counselling if deemed excess.

Performance payments

One-off performance bonus payments are available to employees at Executive Level 2 who are party to a common law arrangement and to SES level employees. For Executive Level 2 employees, there are two components in the performance payment arrangements:

- > an at-risk payment of five per cent of salary dependent on an individual performance assessment outcome of 'effective', 'fully effective' or 'superior'
- > a performance bonus of between four and 15 per cent of salary dependant on an individual performance assessment outcome of 'fully effective' or 'superior'.

SES level employees are eligible only for a performance bonus of between four and 15 per cent of salary dependent on an individual performance assessment outcome of 'fully effective' or 'superior'.

A total of three employees at SES Band 2 level and below received performance pay for service in 2008–09, with the aggregate amount paid being \$54,366 and the average individual payment \$18,122 (see Table 30).

Performance pay for general managers for 2007–08 was not determined when the annual report for that year was tabled. Since then, general managers have received performance pay for service in 2007–08 with the aggregate amount paid being \$126,952 and the average individual payment \$25,390.

Table 30: Performance payments, 2008–09

Employee level	Employees eligible	Employees paid	Total bonuses (\$)	Average bonus (\$)	Bonus range (\$)
EL2	73	70	848,967	11,630	0–22,311
SES Band 1	13	13	198,247	15,250	8,105–21,911
SES Band 2	3	3	54,366	18,122	18,122–18,122
Total	89	86	1,101,580	12,377	0–22,311

Workplace Diversity Program

The ACMA Workplace Diversity Program incorporates APS values and follows the Australian Public Service Commission's *Guidelines on Workplace Diversity*. The program has been put in place to assist the ACMA to:

- > promote the benefits of diversity, for both agency and employees
- > develop and implement actions and achieve results towards diversity targets
- > adhere to its legal responsibilities as an employer
- > increase employee awareness and understanding of workplace diversity issues
- > encourage employees to recognise the benefits of operating within an inclusive work environment.

These diversity principles aim to value the range and variety of skills, abilities and backgrounds in the workplace and the Australian community at large.

The ACMA recognises and values individual differences and aims to raise awareness of the importance of workplace diversity by:

- > including the acknowledgment and acceptance/encouragement of diversity in organisational and individual performance plans
- > ensuring that selection criteria for management positions include the ability to integrate workplace diversity principles into everyday management practice
- > making information available to new employees in induction material.

The ACMA seeks to achieve high-quality equity and diversity outcomes by:

- > supporting equal access to training and development for all individuals and groups
- > ensuring that senior management supports the workplace diversity coordinator
- > helping employees balance work, study, family life and other caring responsibilities through access to home-based work, part-time work, flexitime, studies assistance, and personal and purchased leave.

On 30 June 2009, the ACMA's employee profile was:

- > total employees: 617
- > number of women: 311 (50.41 per cent)
- > number of staff from a non-English-speaking background: 183 (29.66 per cent)
- > number of staff with a disability: nine (1.46 per cent).

Equity in employee selection processes is promoted by training all relevant employees in how to select employees, and by monitoring the effectiveness of the selection guidelines.

Health and safety

The ACMA aims to promote and maintain a high standard of health, safety and wellbeing for all staff. This is achieved by:

- > preventing accidents and ill-health caused by adverse working conditions
- > protecting employees, contractors and the public from health hazards which may arise from their work or the conditions in which they work
- > locating employees in an occupational environment that maximises health, safety and wellbeing
- > promoting health and wellbeing
- > providing information and training to employees on health and safety issues.

The ACMA has designated work groups covering all employees. Each group has an occupational health and safety (H&S) representative and a deputy, with each representative undertaking a five-day training course accredited by the Commission for the Safety, Rehabilitation and Compensation of Commonwealth Employees.

The ACMA has a strong H&S consultative arrangement with one national and four local H&S committees made up of management representatives, H&S representatives and union delegates. H&S and management representatives conduct regular workplace inspections. Representatives take action to address any problems and prevent potential hazards, with reports on these inspections presented at H&S committee meetings.

H&S information is provided to all new employees through the ACMA's electronic employee induction program. Employees have access to health and wellbeing information through the intranet. Information provided covers a wide range of topics including mental health, ergonomics and safe computer use, reporting hazards and injury.

The ACMA has a commitment to the promotion of health and wellbeing within the workplace and supports this through the following initiatives:

- > monthly *Well at Work* newsletter
- > mental health awareness sessions
- > flu vaccinations
- > assistance with costs associated with eye testing and purchase of glasses for screen-based use
- > bullying and harassment awareness sessions.

The ACMA has a strong commitment to the management of the rehabilitation and the return to work process for employees suffering an injury or illness. This commitment has been demonstrated through early intervention strategies including the early engagement of rehabilitation providers to facilitate the return to work process.

During the year, the ACMA did not give notice under section 68 of the *Occupational Health and Safety Act 1991* about any dangerous occurrences.

Consultation and workplace relations

Staff consultative bodies are established under the *ACMA Collective Agreement 2008–10*. The National Consultative Forum deals primarily with the key strategic and change issues that affect the ACMA, and met twice in the reporting period. Convened by the ACMA Chairman, it comprises management, union and employee representatives.

Four Local Consultative Forums, which held one or two meetings in 2008–09, consulted with staff in the Sydney, Canberra and Melbourne offices, and staff located in the regions. Each local forum comprises management, union and employee representatives and is chaired by a senior manager. These bodies can refer matters with organisation-wide implications to the National Consultative Forum.

Approaches used to involve employees in decision-making and information sharing include all-staff meetings, planning sessions, branch and section meetings, focus groups, general information sessions and the use of the ACMA intranet for disseminating information.

Graduate program

Two graduates, with qualifications in science and arts, and secondary teaching, completed their graduate year with the ACMA in 2008. The ACMA did not recruit graduates in 2009. Of the 16 graduates recruited by the ACMA since 1 July 2005, 12 are still employed by the ACMA.

Development and training

The ACMA is committed to addressing identified learning and development needs to improve skills and knowledge and support staff career development by offering a number of learning opportunities.

The ACMA's net expenditure for employee training was \$986,251. A range of topics were addressed in the courses with particular focus on policy formulation, project management, job-specific and people management skills and knowledge.

Staff also attend industry-related seminars and conferences to gain knowledge of leading-edge developments in the communications industry.

During the year, 49 employees were assisted under the provisions of ACMA's Studies Assistance Policy and Guidelines, at a total cost of \$74,302. Employees were assisted in undertaking tertiary qualifications in specialised fields such as engineering science, economics, telecommunications engineering, law, business administration, public sector leadership, journalism, project management, media and communications, accounting, international studies and public policy.

The ACMA Field Office Competency Requirements, Qualifications and Training Project also commenced and training needs have been identified.

Performance management

The ACMA's performance management framework is designed to assist the ACMA to achieve organisational outcomes and outputs through the management of employee performance, to support employees in the workplace, and to assist in maintaining healthy and sustainable work practices. The framework specifically benefits employees by clarifying expectations, improving individual work performance, increasing skills and knowledge, and consequently enhancing career opportunities.

Individual Performance and Development Plans identify key targets and expected results required to ensure that the objectives of area business plans and the ACMA Strategic Plan are achieved. The framework is linked to the ACMA's planning cycle and allows for effective communication and formal feedback at regular intervals.

There has continued to be an emphasis on performance management this year with a number of initiatives and strategies being undertaken to increase the implementation and effectiveness of the performance management framework. These include:

- > the introduction of a five-tier rating system
- > the continuation of conditional pay rises linked to the completion of performance reviews
- > the collection and analysis of data relating to performance ratings across the agency.

The impact of these initiatives will be assessed over the next year.

Creating Knowledge program

Designed specifically for ACMA staff, Creating Knowledge was developed to encourage the sharing of knowledge and expertise across the organisation. The current program consists of seven components:

Conversations—prominent industry and academic speakers from the communications sector present their views on the current and emerging communications environment.

Cross Connections—staff-delivered seminar series on the ACMA's approach to current regulatory and policy issues which draws connections between the work conducted in diverse branches and locations.

Technology Talks—engineering staff and invited guests deliver seminars on current and emerging communications technologies.

Section Snapshots—biannual seminar series providing a snapshot of what our diverse organisation is doing and achieving.

In the Field—field operations staff host seminars in the central offices outlining the ACMA's work in the field and sharing their stories and experience.

Chairman's Events—biannual social events held on site in the Canberra, Melbourne and Sydney offices. These events, including debates and trivia challenges, are hosted in partnership with the social clubs.

Social Networking—web-based forums for discussion and debate on emerging communication issues are used to extend event discussions and knowledge sharing among staff.

ACMA transformation program

The transformation program aims to transform the ACMA into a resilient, agile, e-facing, learning organisation responsive to the numerous pressures for change it confronts. In 2008–09, the ACMA continued its strategic direction using the following five Key Results Areas (KRAs):

1. Ensure consumer safeguards are effective and keep pace with community standards.
2. Meet community and national interests in the planning and delivery of communications services.
3. Maximise consumer and audience choice of communications and media products and services.
4. Ensure the efficient allocation and use of public resources.
5. Ensure the ACMA is a relevant and resilient knowledge-based organisation.

The ACMA is examining and improving 13 identified Value Adding Processes (VAPs) activities across the organisation to assist delivery of KRA outcomes. The interplay between KRAs and VAPs is helping to refine and extend the organisation's understanding of possible performance improvements in achieving these strategic outcomes.

The transformational aspect of building organisational capacity and capabilities is captured in KRA 5 above. The ACMA core values in this transformation include accessibility, accountability, transparency, professionalism, responsiveness and engagement.

Stakeholder engagement was an area of focus for the transformation program in 2008–09. The ACMA conducted its first Client and Stakeholder Satisfaction Survey to assess perceptions of the standard of its service delivery. The survey evaluated the ACMA's service delivery against a number of quality indicators, such as timeliness, responsiveness and professionalism. Since the ACMA has a wide and diverse span of engagement across an increasingly diffused set of markets and activities, the survey sought feedback from a broad range of ACMA clients and major regulatory stakeholders. Survey findings were positive, and showed that the ACMA is actively engaging with its increasing and diverse range of clients and stakeholders in the convergent environment of media and communications. For more detailed information on the Client and Stakeholder Satisfaction Survey, see the Client Service Charter section of this chapter.

Information management

Technology

Key information and communications technology (ICT) objectives for the year were the replacement of the Group 8 contract for the supply of ICT services, the development of a Business Systems Transformation Roadmap to support the ACMA transformational agenda, the support of Project Spectrum as the foundation for business system change across the ACMA, the ongoing maintenance and support of existing ICT services and the change of the Information Systems Section into a branch within the ACMA. The acceptance of the recommendations of the *Review of the Australian Government's Use of Information and Communication Technology* (Gershon Review) also generated a continuous stream of work throughout the year in response to requests for information from the Australian Government Information Management Office (AGIMO) that will need to be further addressed in future years.

The ACMA released a tender for the provision of support services for its IT infrastructure in December 2008. The tender sought a service provider to work in partnership with the ACMA to support and manage the ACMA's LAN and desktop environment under an Information Technology Infrastructure Library (ITIL) model. In May 2009, Logica was announced as the successful tenderer and the transition to the new contract was completed on 26 June 2009.

As part of the transition out of the Group 8 contract, the ACMA finalised the rollout of the VoIP telephone system, replaced printers and faxes under a new contract provider and brought the service desk function in-house to manage the new multi-sourced service provider arrangements.

The ACMA had previously commenced a business system replacement project to replace the systems that dealt with spectrum management. This project, called Project Spectrum, will replace approximately 40 per cent of the ACMA's business system functionality. To address the replacement and transformation of the remaining 60 per cent of business systems, the ACMA undertook the development of a Business Systems Transformation Roadmap. This roadmap has provided the ACMA with a vision of the future state of ACMA systems five years from now and a detailed map of the work required to achieve that vision. This roadmap, combined with Project Spectrum, will set the transformation agenda for the ACMA's ICT investment for the next five years.

Maintaining and enhancing existing services was a priority throughout the reporting period. The ACMA's systems underwent considerable improvements and change including:

- > the replacement of the ACMA desktop computers
- > continued development and enhancement of the ACMA's corporate reporting and business intelligence tools and systems, including report enhancements
- > the development and implementation of systems to assist with the switchover to digital television
- > functionality to allow for bulk applications for telephone numbers
- > enhancements to broadcasting regulation systems including the regional commercial radio regulation system, broadcasting investigations system, internet content complaints forms, online tools for reporting on registered controlled media groups, and support for the URL blacklist
- > application enhancement, testing and data maintenance to ensure continued service provision and conformity with legislative requirements.

The increasing importance of ICT in the transformation of the ACMA resulted in the formation of an Information Systems Branch during the year. The role of Chief Information Officer was reclassified to the Executive Manager level and two Deputy Chief Information Officer positions were created with responsibility for business as usual and transformation activities within the branch.

To continue the evolution and maturity of sound governance and ICT service delivery procedures, the Information Systems Section continued to evolve the use of ITIL and raised the management of projects into a Program Management Office.

Information

In 2008–09, the Information Management Section made substantial progress in improving the organisation's records management.

At the end of this financial year, 80 per cent of the recommendations of the 2007–08 internal audit of records and information management had been implemented, including the development of a five-year strategic plan.

A total of 70 top-level business activities were identified as requiring detailed analysis to successfully move them to electronic document and records management (EDRM) in TRIM. During 2008–09, 65 per cent of the business has been moved to EDRM. This has resulted in a significant change and improvement in business process management and recordkeeping. In the third quarter of 2008–09, 135 hard copy files were created compared to 605 electronic files.

Through specific section-based and generic TRIM training sessions, 50 per cent (252) of the ACMA's staff have received TRIM training. The ACMA also introduced a Records and Information Management Security Induction Program for all new starters.

During the period, the ACMA developed and briefed all staff on several records and information management instructions and procedures to ensure compliant and consistent management of organisation records and metadata.

Changes introduced to date have delivered consistent and improved records compliance and more efficient information management to ACMA business areas.

Corporate governance

Security

The ACMA manages its security function in accordance with the revised *Australian Government Protective Security Manual 2005 (PSM)*. All requirements of the three-year, rolling security inspection program recommended by the PSM for state and regional premises scheduled throughout the year were completed, and all statutory reporting requirements were met in 2008–09.

The ACMA Security Advisory Committee, created in 2007–08, continued to oversee security issues and implement additional and improved policy and procedures as required. In accordance with the *Commonwealth Fraud Control Guidelines*, the ACMA reviewed its fraud risk assessment and updated its Fraud Control Plan, which was approved by the Chairman on 20 March 2009. All statutory reporting requirements of the *Commonwealth Fraud Control Guidelines* were met in 2008–09.

Audit

During 2008–09 the ACMA's internal audit function was undertaken by Oakton. The strategic internal audit program continued to focus on whole-of-organisation and key corporate processes where a high level of quality assurance is required, particularly those associated with the financial administration and information technology management. Gaining assurance on the management of key initiatives was also an area of focus and continues to be an ongoing priority. Additional information about the ACMA's Audit Committee is detailed in Chapter 1 and Appendix 2.

Risk management

During the year, the ACMA implemented a revised whole-of-agency risk management framework, focusing on branch-level identification and management of operational risk, and whole-of-agency strategic organisational risks. Risks identified in the framework were integrated with the ACMA's business planning and linked to the 2009–10 internal budget process. Development of the risk management framework has been supported by the ACMA's participation in Comcover's Benchmarking Risk Management Program. The ACMA met all statutory reporting requirements required by the Australian National Audit Office (ANAO), the ACMA's insurer (Comcover) and the Attorney-General's Department.

External scrutiny

During 2008–09, the Australian National Audit Office (ANAO) did not conduct any performance audits of ACMA activity. However, recommendations of the performance audit of the regulation of commercial broadcasting, undertaken in 2007–08, were addressed. In May 2009, the ANAO commenced an audit of the Do Not Call Register to assess the operation, compliance, management and monitoring of the register.

Client Service Charter

The ACMA's first Client Service Charter came into effect on 1 July 2006. The Client Service Charter outlines the ACMA's strategic intent, the goals it works towards and the broad range of services it provides. The charter provides advice on how clients can contact the ACMA, the service clients should expect, service standards and complaint procedures. The ACMA Client Service Charter reflects the ACMA's commitment to providing efficient, effective and relevant services delivered in an environment of mutual respect.

During 2009–09 the ACMA conducted its inaugural Client and Stakeholder Satisfaction Survey. The survey was undertaken to assess stakeholder perceptions of the standard of the ACMA's service delivery. The objectives of the survey were to:

- > gauge clients and stakeholder perceptions of ACMA's service delivery
- > collect data against the ACMA Client Service Charter
- > obtain feedback to inform process improvements
- > gather baseline data for future years.

In addition, the survey evaluated the ACMA's service delivery against a number of quality indicators, such as timeliness, responsiveness and professionalism.

The results of the survey were very positive, and show that ACMA is actively engaging with its increasing and diverse range of stakeholders in this environment of increasing convergence.

The results of the stakeholder element of the survey provide a clear indication that the ACMA takes its commitment to stakeholder engagement and consultation very seriously. Of those surveyed, 86.5 per cent indicated that they have an effective working relationship with the ACMA and 92 per cent advised that the ACMA's interactions with them had either improved or maintained previous standards in the past 12 months.

The findings of the client survey were also very positive, with 87 per cent of clients indicating that they are satisfied with the ACMA's approach to client service and further indicating that they had positive interactions with the ACMA and its staff. Clients saw staff as courteous and friendly (98.5 per cent), good at handling confidential information appropriately (95.5 per cent) and consistent in the advice provided (90 per cent).

Table 31: Summary of compliments and complaints, 2008–09

Description	Total no. of complaints	Total no. of compliments
Courtesy and respect	1	2
Identification of staff dealing with client	-	1
Response time to complaint	3	-
Accessible information	2	-
Helpful service	-	1

In particular, clients praised the courteous and friendly nature of the ACMA staff who were highly regarded for the way they handle sensitive information and for being responsive and professional.

The information obtained from the survey will assist the ACMA to benchmark its progress towards achieving a standard of performance that is defined as being 'to be, and to be recognised as, the world's best converged communications regulator by the end of 2010'. The results and comments from the Client and Stakeholder Satisfaction Survey will be used to inform future reviews of the ACMA's Client Service Charter.

Communications

Media relations

The ACMA's external positioning strategy sets out a proactive approach to media relations to provide timely and accurate information to the public. In 2008–09, the ACMA issued 160 media releases. Authority members and staff gave interviews to the print and electronic media on a broad range of matters.

Publishing

The ACMA's broad publishing program covers printed and electronically published material. The ACMA publications are available on its website, with copies of printed publications available on request.

ACMAsphere, the ACMA's newsletter, covers the organisation's activities and is published 11 times a year, both online and in print.

Financial management

Throughout 2008–09, the ACMA continued to improve the provision of financial management and related services to industry, government and the community, including key agencies such as the Department of Finance and Deregulation (DoFD). The ACMA met all of its statutory budgeting and reporting requirements and deadlines as set down by DoFD and ANAO.

Financial management resources were used to:

- > improve the external financial reporting process for the March 'hard close' and year-end financial statements
- > further improve internal management accounting reporting
- > improve the Certificate of Compliance process and reporting
- > upgrade the online travel database for the ACMA to enhance travel processes
- > enhance debtors and align processes;
- > design and improve a number of internal accounting processes
- > upgrade the activity based costing system;
- > upgrade the financial management and information system
- > commence implementing a revenue assurance framework
- > implement new measures and activities as requested by government
- > develop and implement a range of Chief Executive and Management Instructions;
- > develop a financial systems plan to consolidate the number of systems
- > implement a new cost-recovery arrangement for the Do Not Call Register
- > implement a risk management process and improved corporate governance framework
- > complete an extensive internal audit program, implementing a number of changes across the ACMA, and participate actively in other audit undertakings.

The ACMA's financial statements for 2008–09 were prepared in accordance with section 57 of the *Financial Management and Accountability Act 1997* and the Finance Minister's Orders. The ANAO issued an unqualified audit opinion on the statements and notes (see Appendix 17).

Procurement and contract management

The ACMA continues to focus on the efficiency and effectiveness of procurement services in supporting business outcomes. All purchasing commitments are consistent with the current *Commonwealth Procurement Guidelines* and represent value for money for the Commonwealth.

During 2008–09, the ACMA operated a centralised unit with roles that include the provision of procurement and contract management advice, corporate monitoring and reporting, probity advice and staff training. This reflects the ACMA's commitment to responsible procurement and contract management, enhancing its capacity to provide best practice advice and expertise to its divisions.

The ACMA continued to streamline procurement by utilising the full electronic tendering processes available through AusTender for open approaches to the market that exceed \$80,000.

Grant programs

The ACMA does not administer any grant programs.

Asset management

The ACMA's asset management procedures and policies reflect relevant legislation and better practice. Major asset categories are land and buildings, leasehold improvements, plant and equipment, and software purchased and developed internally. Fixed assets, valued at fair value, are reviewed each year for carrying values and useful lives.

In 2008–09, the ACMA managed 263 assets with a net value of \$21.236 million and zero items of IT equipment held under finance lease arrangements. During the year, several improvements were made to the asset register in line with 2007–08 changes, to further improve asset management processes and procedures across the ACMA.

Property management

The Facilities Section manages the ACMA property portfolio, which includes leased, licensed and Commonwealth-owned premises ranging from standard office accommodation in the major capital cities to small radio monitoring sites at remote locations. During the reporting period, six regional offices were closed and another relocated.

Ecologically sustainable development and environmental performance

The ACMA has an ongoing commitment to reducing the organisation's impact on the environment through the procurement of green power. The ACMA will continue to amend and update current energy contracts as they expire to include a 10 per cent green energy requirement. The current energy contracts for ACMA's three principal offices include a 10 per cent green energy component. Cleaning contracts include specific reference to the provision of environmentally friendly cleaning products and office waste is separated into recyclable and non-recyclable components.

The ACMA's videoconferencing facilities were expanded and upgraded during the reporting period, reducing the requirement for travel.

Glossary

3G	Third generation mobile telecommunications Mobile telecommunications systems that can provide global mobile communications and support multimedia applications.
3.5G/4G	Enhancements to mobile telecommunications systems that increase the usable data rate to allow the delivery of data-intensive applications such as high resolution video.
ABA	Australian Broadcasting Authority Former Commonwealth regulatory authority responsible for broadcasting.
ABC	Australian Broadcasting Corporation Free-to-air national broadcaster of ABC radio and television channels, as well as the internet services ABC Online, ABC Broadband and DIG internet radio. The ABC is funded by the Australian Government.
ABS	Australian Bureau of Statistics Australia's official statistical organisation serving government, business and the general population.
ACA	Australian Communications Authority Former Commonwealth regulatory authority responsible for radiocommunications and telecommunications.
ACCC	Australian Competition and Consumer Commission Commonwealth regulatory body with responsibilities derived from the <i>Trade Practices Act 1974</i> .
ACE	Australian Communication Exchange Current National Relay Service provider and emergency call person for the text-based emergency call service.
ACMA	Australian Communications and Media Authority Commonwealth regulatory authority for broadcasting, online content, radiocommunications and telecommunications, with responsibilities under the <i>Broadcasting Services Act 1992</i> , the <i>Radiocommunications Act 1992</i> , the <i>Telecommunications Act 1997</i> and related Acts. Established on 1 July 2005 following a merger of the Australian Communications Authority and the Australian Broadcasting Authority.
ASIS	Australian Internet Security Initiative Managed by the ACMA to address e-security threats.
ANAO	Australian National Audit Office Office responsible for financial and performance audits of Commonwealth departments and authorities.
ANC	Annual Numbering Charges
ARPANSA	Australian Radiation Protection and Nuclear Safety Agency Commonwealth regulatory and research agency responsible for protecting people and the environment from the harmful effects of ionising and non-ionising radiation.
Associated Newspaper Register	A public register of newspapers 'associated' with commercial radio or commercial television broadcasting licence areas.
ASTRA	Australian Subscription Television and Radio Association Industry body for subscription television, radio broadcasters and narrowcasters, responsible for developing and reviewing industry codes of practice, in consultation with the ACMA.
broadband	Describes a class of internet access technologies, such as ADSL, HFC cable and WiFi, offering a data rate significantly higher than narrowband services. These services are usually 'always on' and do not tie up a telephone line exclusively for data.
BSB	broadcasting services bands Parts of the radiofrequency spectrum dedicated to broadcasting services.

carrier	The holder of a telecommunications carrier licence in force under the <i>Telecommunications Act 1997</i> .
CCF	Consumer Consultative Forum Assists the ACMA to perform its functions relating to consumers.
CDMA	code division multiple access Digital coding technique used primarily for mobile telecommunications and satellite services, employing a bandwidth much larger than the original signal. Each signal is uniquely encoded and decoded, allowing many signals to occupy the same spectrum.
Communications Alliance	Australia's peak communications industry organisation that promotes the growth of the Australian communications industry and the protection of consumer interests.
coverage area	Geographic area in which calls are able to be made successfully. For instance, the area between a base station and a mobile phone handset.
CPRs	cabling provider rules Rules to support telecommunications cabling industry self-regulation.
CSER	Communications Security and Enforcement Roundtable A forum that deals with communications, law enforcement regulatory and operational matters. CSER replaced the Law Enforcement Advisory Committee (LEAC).
CSG	Customer Service Guarantee Standard covering provision of the standard telephone service that provides for financial compensation to customers if the requirements in the standard are not met. The new CSG Standard came into effect from 30 June 2000, replacing the original 1998 standard, and was amended in 2004.
CSP	carriage service provider Person supplying or proposing to supply services to the public using carrier networks.
CTS	Children's Television Standards Standards designed to provide access for children (aged <14 years) to quality television programs made specifically for them. The standards regulate timing and scheduling of children's programs and content of adjacent programming.
DAB	Digital Audio Broadcasting A digital radio technology for broadcasting radio stations.
DBCDE	Department of Broadband, Communications and the Digital Economy Commonwealth department that provides policy advice and program support to the Australian Government on information technology and communications portfolio issues.
DNCR	Do Not Call Register Established by THE ACMA to allow individuals to register their home and mobile numbers to opt out of receiving most unsolicited telemarketing calls, with limited exemptions for public interest organisations.
DOFD	Department of Finance and Deregulation Commonwealth department that provides high-quality, strategic policy and financial advice to support government decision-making and improved Australian Government financial management.
DRCP	Digital Radio Channel Plan
DRM	digital radio mondiale A digital radio technology supported internationally for frequency bands below 30 MHz, including for non-BSB spectrum.
DSL	digital subscriber line Transmission system allowing high data rate communication over copper wires.
ECSAC	Emergency Call Service Advisory Committee Formerly the Emergency Services Advisory Committee. Advises on emergency services matters.
EDRM	Electronic Document and Records Management
EMC	electromagnetic compatibility Ability of an electrical or electronic device or system to function satisfactorily without causing electromagnetic interference to other devices.
EME	electromagnetic energy Energy of electric and magnetic field components of a radio wave.
EMR	electromagnetic radiation Transmission of energy in the form of waves having an electric and magnetic component.
ENUM	Electronic NUMBERing A protocol that translates numbers into a format that can be recognised by the internet system, and enables the linking of telephone numbers or internet addresses with communications services such as email, facsimile transmission and mobile telephony.
ESNA	e-security National Agenda Established by the Australian Government to strengthen the electronic operating environment for business, home users and government agencies.

ESO	Emergency Service Organisation Organisation providing an emergency service, such as police, ambulance or fire brigade.
FLRN	freephone and local rate number Telephone numbers commencing with the digits 180 (freephone) and 13 (local rate).
FOI Act	<i>Freedom of Information Act 1982</i> Legislation dealing with access by the general public to information gathered and held by Commonwealth agencies.
GHz	gigahertz One billion Hertz (where one Hertz is the measurement of frequency equal to one cycle of electromagnetic radiation per second).
GSM	global system for mobiles Digital cellular network standard that uses a time division multiple access technique to multiplex signals onto a single channel in a rotated sequence of time slots, with each user having exclusive access to a time slot.
HDTV	High-definition television A digital television broadcasting system with higher resolution than traditional television systems.
HF	high frequency Radiofrequency spectrum in the 3–30 MHz frequency range.
IAP	Internet Assistance Program
ICT	Information and Communication Technology
INHOPE	International Association of Internet Hotlines Deals with complaints about illegal internet content, mainly child pornography.
INMS	Industry Number Management Services Ltd Company established by carriers and carriage service providers to manage and allocate portable freephone and local rate numbers from a pool, under delegation from the ACMA.
IP	internet protocol The key member of the suite of internet protocols at the logical layer, specifying packet addressing and routing of data through the internet.
IPND	Integrated Public Number Database Database of information about customers of telecommunications services in Australia, arranged by number, for all carriers and carriage service providers.
IPTV	internet protocol television Television system whereby digital content is delivered via a network infrastructure, often in conjunction with video-on-demand and other non-television services such as VoIP and other internet services.
ISP	internet service provider Service provider offering internet access.
ITU	International Telecommunication Union United Nations agency that coordinates international telecommunications matters.
ITU-R	ITU – Radiocommunication Sector ITU body dealing with international radiocommunications matters.
ITU-T	ITU – Telecommunication Standardization Sector ITU body dealing with international telecommunications standards.
IWF	Internet Watch Foundation UK organisation working to report exposure to potentially illegal online content.
kbit/s	kilobits per second Data communication rate of one thousand bits per second.
kHz	kilohertz One thousand Hertz (see also Gigahertz).
LAP	Licence area plan A legislative instrument setting out the licence area and the technical specifications for existing and proposed services.
LEAC	Law Enforcement Advisory Committee Committee that advises on communications law enforcement matters. LEAC was replaced by CSEI in 2008–09.
LIPD	Low Interference Potential Devices
LICS	Location Independent Communication Service
LPON	low power open narrowcasting Radiocommunications class licence type authorising radio services operating at very low power outputs in the frequency range 87.5–88.0 MHz.

MHz	Megahertz One million Hertz (see also <i>Gigahertz</i>).
MMS	multimedia messaging service Mobile telecommunications data transmission service for sending messages with a combination of text, sound, image and video to MMS-capable handsets.
the minister	Minister for Broadband, Communications and the Digital Economy Minister responsible for the ACMA and its governing legislation.
NAC	Numbering Advisory Committee Committee established to advise on numbering matters.
narrowband	A class of telecommunications services such as dial-up internet access that offer data rates of 64 kbit/s or lower.
NATA	National Association of Testing Authorities Australia's national laboratory accreditation authority that recognises and promotes facilities competent in specific types of testing, measurement, inspection and calibration.
NGN	next generation network General term for developments in network architecture using various access and core technologies covering wired, wireless and mobile communications. A primary characteristic is the decoupling of services and networks, allowing these to be offered separately and to evolve independently.
NRF	Network Reliability Framework Requirement on Telstra from January 2003 to provide regular reports to the ACMA on the reliability of its fixed line services, and to remediate the network in areas with particularly poor performance.
NRS	National Relay Service Translation service between voice and non-voice telephone users providing access to the standard telephone service for people with communication impairment. Relays voice, modem or telephone typewriter communications.
number portability	Arrangements allowing customers to transfer from one telecommunications service provider to another without changing their number.
ONT	Open Narrowcast Television
PAFO	Protecting Australian Families Online An initiative of the previous Australian Government that provided Australian families to with access to free content filters for their home computers and practical advice about internet safety.
payphone	Public telephone where calls may be paid for with coins, phone cards, credit cards or reverse charge facilities.
portability	See <i>number portability</i> .
pre-selection	Offers customers choice and supports competition by enabling competing operators to use the networks of other carriers to access their customers.
priority assistance	Service for people with a diagnosed life-threatening medical condition entitling them to faster connection and fault repair of their fixed-line telephone service.
RCC	Radiocommunications Consultative Committee Formed to facilitate consultation between the ACMA and industry on major domestic and international radiocommunications issues.
RCMG	Register of Controlled Media Groups Lists the media groups in each licence area, the media operations that form part of a group and the controllers of those operations.
SBS	Special Broadcasting Service Free-to-air national radio and television broadcasting service providing multilingual and multicultural programs that inform, educate and entertain all Australians and, in doing so, reflect Australia's multicultural society. The SBS Online service also provides additional multilingual content through the internet.
SDTV	Standard definition television
SIM	subscriber identity module Card inserted inside mobile phones or terminals to provide secure user authentication for network connection and roaming. The card is embedded with small metal-coated microprocessor silicon chips capable of storing data and adding, deleting, or manipulating information in the card memory.
SMS	short message service Mobile telecommunications data transmission service that allows users to send short text messages to each other using the mobile handset keypad.
spam	Unsolicited messages often sent in bulk to a large number of email addresses.
smar^{tr}numbers[®]	Specified freephone (1800) or local rate (13, or 1300) numbers allocated by auction that are considered desirable because they can be translated to a phoneword or have a memorable pattern.

SpamMATTERS	The ACMA's spam reporting and forensic analysis system. Users download a 'button' from the ACMA website to their email application that enables them to simultaneously delete spam from their computer and report it to the ACMA.
TAG	Technical Advisory Group Provides policy advice and recommendations to the ACMA about strategic directions in the technical regulation of communications in Australia.
TCBL	Temporary Community Broadcasting Licence
TIO	Telecommunications Industry Ombudsman Industry-funded independent dispute resolution service for consumers who are unable to resolve individual complaints with their carriers and carriage service providers.
TS	technical standard Standard for communications customer equipment or networks.
TSAG	Telecommunications Standardization Advisory Group
TTY	teletypewriter Telephone typewriter where the caller types the communication after the call is connected, enabling people with communication impairment to use the standard telephone service.
TWG	Technical Working Group
UHF	ultra high frequency Part of the radiofrequency spectrum between 300 and 3,000 MHz.
USO	universal service obligation Obligation under the <i>Telecommunications Act 1997</i> to ensure that standard telephone, payphone and prescribed carriage services are reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business.
VHF	very high frequency Portion of the radiofrequency spectrum between 30 and 300 MHz.
VoIP	voice over internet protocol A protocol for transmitting voice over packet-switched data networks. Also called IP telephony.
WAS	Wireless access services The wireless connection of business and households to the internet and the phone system.
WRC	World Radiocommunication Conference ITU conference held every three or four years to review and amend international radio regulations.
WTSA	World Telecom Standardization Assembly Defines general policy and adopts working methods and procedures for ITU-T.

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